

**(4) Clarification of allowance of deduction under minimum tax**

Notwithstanding section 56(a)(1), the deduction under this section shall be allowed in determining alternative minimum taxable income under section 55.

**(g) Termination**

This section shall not apply to any building placed in service after December 31, 2009.

(Added Pub. L. 106-554, §1(a)(7) [title I, §101(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A-596.)

**§ 1400J. Increase in expensing under section 179**

**(a) In general**

For purposes of section 1397A—

(1) a renewal community shall be treated as an empowerment zone,

(2) a renewal community business shall be treated as an enterprise zone business, and

(3) qualified renewal property shall be treated as qualified zone property.

**(b) Qualified renewal property**

For purposes of this section—

**(1) In general**

The term “qualified renewal property” means any property to which section 168 applies (or would apply but for section 179) if—

(A) such property was acquired by the taxpayer by purchase (as defined in section 179(d)(2)) after December 31, 2001, and before January 1, 2010, and

(B) such property would be qualified zone property (as defined in section 1397D) if references to renewal communities were substituted for references to empowerment zones in section 1397D.

**(2) Certain rules to apply**

The rules of subsections (a)(2) and (b) of section 1397D shall apply for purposes of this section.

(Added Pub. L. 106-554, §1(a)(7) [title I, §101(a)], Dec. 21, 2000, 114 Stat. 2763, 2763A-598.)

**Subchapter Y—Short-Term Regional Benefits**

Part

- |      |   |
|------|---|
| I.   | Tax Benefits for New York Liberty Zone. |
| II.  | Tax Benefits for GO Zones.              |
| III. | Recovery Zone Bonds.                    |

AMENDMENTS

2009—Pub. L. 111-5, div. B, title I, §1401(b), Feb. 17, 2009, 123 Stat. 351, added item for part III.

2005—Pub. L. 109-135, title I, §101(b)(3), Dec. 21, 2005, 119 Stat. 2593, substituted “Short-Term Regional Benefits” for “New York Liberty Zone Benefits” in subchapter heading and amended analysis generally, substituting items for parts I and II for item 1400L.

**PART I—TAX BENEFITS FOR NEW YORK LIBERTY ZONE**

Sec.

- |        |   |
|--------|---|
| 1400L. | Tax benefits for New York Liberty Zone. |
|--------|---|

**§ 1400L. Tax benefits for New York Liberty Zone**

**(a) Expansion of work opportunity tax credit**

**(1) In general**

For purposes of section 51, a New York Liberty Zone business employee shall be treated as a member of a targeted group.

**(2) New York Liberty Zone business employee**

For purposes of this subsection—

**(A) In general**

The term “New York Liberty Zone business employee” means, with respect to any period, any employee of a New York Liberty Zone business if substantially all the services performed during such period by such employee for such business are performed in the New York Liberty Zone.

**(B) Inclusion of certain employees outside the New York Liberty Zone**

**(i) In general**

In the case of a New York Liberty Zone business described in subclause (II) of subparagraph (C)(i), the term “New York Liberty Zone business employee” includes any employee of such business (not described in subparagraph (A)) if substantially all the services performed during such period by such employee for such business are performed in the City of New York, New York.

**(ii) Limitation**

The number of employees of such a business that are treated as New York Liberty Zone business employees on any day by reason of clause (i) shall not exceed the excess of—

(I) the number of employees of such business on September 11, 2001, in the New York Liberty Zone, over

(II) the number of New York Liberty Zone business employees (determined without regard to this subparagraph) of such business on the day to which the limitation is being applied.

The Secretary may require any trade or business to have the number determined under subclause (I) verified by the New York State Department of Labor.

**(C) New York Liberty Zone business**

**(i) In general**

The term “New York Liberty Zone business” means any trade or business which is—

(I) located in the New York Liberty Zone, or

(II) located in the City of New York, New York, outside the New York Liberty Zone, as a result of the physical destruction or damage of such place of business by the September 11, 2001, terrorist attack.

**(ii) Credit not allowed for large businesses**

The term “New York Liberty Zone business” shall not include any trade or business for any taxable year if such trade or business employed an average of more than 200 employees on business days during the taxable year.

**(D) Special rules for determining amount of credit**

For purposes of applying subpart F of part IV of subchapter A of this chapter to wages paid or incurred to any New York Liberty Zone business employee—

(i) section 51(a) shall be applied by substituting “qualified wages” for “qualified first-year wages”,

(ii) the rules of section 52 shall apply for purposes of determining the number of employees under this paragraph,

(iii) subsections (c)(4) and (i)(2) of section 51 shall not apply, and

(iv) in determining qualified wages, the following shall apply in lieu of section 51(b):

**(I) Qualified wages**

The term “qualified wages” means wages paid or incurred by the employer to individuals who are New York Liberty Zone business employees of such employer for work performed during calendar year 2002 or 2003.

**(II) Only first \$6,000 of wages per calendar year taken into account**

The amount of the qualified wages which may be taken into account with respect to any individual shall not exceed \$6,000 per calendar year.

**(b) Special allowance for certain property acquired after September 10, 2001**

**(1) Additional allowance**

In the case of any qualified New York Liberty Zone property—

(A) the depreciation deduction provided by section 167(a) for the taxable year in which such property is placed in service shall include an allowance equal to 30 percent of the adjusted basis of such property, and

(B) the adjusted basis of the qualified New York Liberty Zone property shall be reduced by the amount of such deduction before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

**(2) Qualified New York Liberty Zone property**

For purposes of this subsection—

**(A) In general**

The term “qualified New York Liberty Zone property” means property—

(i) which is described in section 168(k)(2)(A)(i), or

(ii) which is nonresidential real property, or residential rental property, which is described in subparagraph (B),

(iii) substantially all of the use of which is in the New York Liberty Zone and is in the active conduct of a trade or business by the taxpayer in such Zone,

(iv) the original use of which in the New York Liberty Zone commences with the taxpayer after September 10, 2001,

(v) which is acquired by the taxpayer by purchase (as defined in section 179(d)) after September 10, 2001, but only if no written binding contract for the acquisition was in effect before September 11, 2001, and

(vi) which is placed in service by the taxpayer on or before the termination date.

The term “termination date” means December 31, 2006 (December 31, 2009, in the case of

nonresidential real property and residential rental property).

**(B) Eligible real property**

Nonresidential real property or residential rental property is described in this subparagraph only to the extent it rehabilitates real property damaged, or replaces real property destroyed or condemned, as a result of the September 11, 2001, terrorist attack. For purposes of the preceding sentence, property shall be treated as replacing real property destroyed or condemned if, as part of an integrated plan, such property replaces real property which is included in a continuous area which includes real property destroyed or condemned.

**(C) Exceptions**

**(i) Bonus depreciation property under section 168(k)**

Such term shall not include property to which section 168(k) applies.

**(ii) Alternative depreciation property**

The term “qualified New York Liberty Zone property” shall not include any property described in section 168(k)(2)(D)(i).

**(iii) Qualified New York Liberty Zone leasehold improvement property**

Such term shall not include any qualified New York Liberty Zone leasehold improvement property.

**(iv) Election out**

For purposes of this subsection, rules similar to the rules of section 168(k)(2)(D)(iii) shall apply.

**(D) Special rules**

For purposes of this subsection, rules similar to the rules of section 168(k)(2)(E) shall apply, except that clause (i) thereof shall be applied without regard to “and before January 1, 2013”, and clause (iv) thereof shall be applied by substituting “qualified New York Liberty Zone property” for “qualified property”.

**(E) Allowance against alternative minimum tax**

For purposes of this subsection, rules similar to the rules of section 168(k)(2)(G) shall apply.

**(c) 5-year recovery period for depreciation of certain leasehold improvements**

**(1) In general**

For purposes of section 168, the term “5-year property” includes any qualified New York Liberty Zone leasehold improvement property.

**(2) Qualified New York Liberty Zone leasehold improvement property**

For purposes of this section, the term “qualified New York Liberty Zone leasehold improvement property” means qualified leasehold improvement property (as defined in section 168(k)(3)) if—

(A) such building is located in the New York Liberty Zone,

(B) such improvement is placed in service after September 10, 2001, and before January 1, 2007, and

(C) no written binding contract for such improvement was in effect before September 11, 2001.

**(3) Requirement to use straight line method**

The applicable depreciation method under section 168 shall be the straight line method in the case of qualified New York Liberty Zone leasehold improvement property.

**(4) 9-year recovery period under alternative system**

For purposes of section 168(g), the class life of qualified New York Liberty Zone leasehold improvement property shall be 9 years.

**(5) Election out**

For purposes of this subsection, rules similar to the rules of section 168(k)(2)(D)(iii) shall apply.

**(d) Tax-exempt bond financing**

**(1) In general**

For purposes of this title, any qualified New York Liberty Bond shall be treated as an exempt facility bond.

**(2) Qualified New York Liberty Bond**

For purposes of this subsection, the term “qualified New York Liberty Bond” means any bond issued as part of an issue if—

(A) 95 percent or more of the net proceeds (as defined in section 150(a)(3)) of such issue are to be used for qualified project costs,

(B) such bond is issued by the State of New York or any political subdivision thereof,

(C) the Governor or the Mayor designates such bond for purposes of this section, and

(D) such bond is issued after the date of the enactment of this section and before January 1, 2012.

**(3) Limitations on amount of bonds**

**(A) Aggregate amount designated**

The maximum aggregate face amount of bonds which may be designated under this subsection shall not exceed \$8,000,000,000, of which not to exceed \$4,000,000,000 may be designated by the Governor and not to exceed \$4,000,000,000 may be designated by the Mayor.

**(B) Specific limitations**

The aggregate face amount of bonds issued which are to be used for—

(i) costs for property located outside the New York Liberty Zone shall not exceed \$2,000,000,000,

(ii) residential rental property shall not exceed \$1,600,000,000, and

(iii) costs with respect to property used for retail sales of tangible property and functionally related and subordinate property shall not exceed \$800,000,000.

The limitations under clauses (i), (ii), and (iii) shall be allocated proportionately between the bonds designated by the Governor and the bonds designated by the Mayor in proportion to the respective amounts of bonds designated by each.

**(C) Movable property**

No bonds shall be issued which are to be used for movable fixtures and equipment.

**(4) Qualified project costs**

For purposes of this subsection—

**(A) In general**

The term “qualified project costs” means the cost of acquisition, construction, reconstruction, and renovation of—

(i) nonresidential real property and residential rental property (including fixed tenant improvements associated with such property) located in the New York Liberty Zone, and

(ii) public utility property (as defined in section 168(i)(10)) located in the New York Liberty Zone.

**(B) Costs for certain property outside zone included**

Such term includes the cost of acquisition, construction, reconstruction, and renovation of nonresidential real property (including fixed tenant improvements associated with such property) located outside the New York Liberty Zone but within the City of New York, New York, if such property is part of a project which consists of at least 100,000 square feet of usable office or other commercial space located in a single building or multiple adjacent buildings.

**(5) Special rules**

In applying this title to any qualified New York Liberty Bond, the following modifications shall apply:

(A) Section 146 (relating to volume cap) shall not apply.

(B) Section 147(d) (relating to acquisition of existing property not permitted) shall be applied by substituting “50 percent” for “15 percent” each place it appears.

(C) Section 148(f)(4)(C) (relating to exception from rebate for certain proceeds to be used to finance construction expenditures) shall apply to the available construction proceeds of bonds issued under this section.

(D) Repayments of principal on financing provided by the issue—

(i) may not be used to provide financing, and

(ii) must be used not later than the close of the 1st semiannual period beginning after the date of the repayment to redeem bonds which are part of such issue.

The requirement of clause (ii) shall be treated as met with respect to amounts received within 10 years after the date of issuance of the issue (or, in the case of a refunding bond, the date of issuance of the original bond) if such amounts are used by the close of such 10 years to redeem bonds which are part of such issue.

(E) Section 57(a)(5) shall not apply.

**(6) Separate issue treatment of portions of an issue**

This subsection shall not apply to the portion of an issue which (if issued as a separate issue) would be treated as a qualified bond or as a bond that is not a private activity bond (determined without regard to paragraph (1)), if the issuer elects to so treat such portion.

**(e) Advance refundings of certain tax-exempt bonds****(1) In general**

With respect to a bond described in paragraph (2) issued as part of an issue 90 percent (95 percent in the case of a bond described in paragraph (2)(C)) or more of the net proceeds (as defined in section 150(a)(3)) of which were used to finance facilities located within the City of New York, New York (or property which is functionally related and subordinate to facilities located within the City of New York for the furnishing of water), one additional advanced refunding after the date of the enactment of this section and before January 1, 2006, shall be allowed under the applicable rules of section 149(d) if—

(A) the Governor or the Mayor designates the advance refunding bond for purposes of this subsection, and

(B) the requirements of paragraph (4) are met.

**(2) Bonds described**

A bond is described in this paragraph if such bond was outstanding on September 11, 2001, and is—

(A) a State or local bond (as defined in section 103(c)(1)) which is a general obligation of the City of New York, New York,

(B) a State or local bond (as so defined) other than a private activity bond (as defined in section 141(a)) issued by the New York Municipal Water Finance Authority or the Metropolitan Transportation Authority of the State of New York or the Municipal Assistance Corporation, or

(C) a qualified 501(c)(3) bond (as defined in section 145(a)) which is a qualified hospital bond (as defined in section 145(c)) issued by or on behalf of the State of New York or the City of New York, New York.

**(3) Aggregate limit**

For purposes of paragraph (1), the maximum aggregate face amount of bonds which may be designated under this subsection by the Governor shall not exceed \$4,500,000,000 and the maximum aggregate face amount of bonds which may be designated under this subsection by the Mayor shall not exceed \$4,500,000,000.

**(4) Additional requirements**

The requirements of this paragraph are met with respect to any advance refunding of a bond described in paragraph (2) if—

(A) no advance refundings of such bond would be allowed under any provision of law after September 11, 2001,

(B) the advance refunding bond is the only other outstanding bond with respect to the refunded bond, and

(C) the requirements of section 148 are met with respect to all bonds issued under this subsection.

**(f) Increase in expensing under section 179****(1) In general**

For purposes of section 179—

(A) the limitation under section 179(b)(1) shall be increased by the lesser of—

(i) \$35,000, or

(ii) the cost of section 179 property which is qualified New York Liberty Zone property placed in service during the taxable year, and

(B) the amount taken into account under section 179(b)(2) with respect to any section 179 property which is qualified New York Liberty Zone property shall be 50 percent of the cost thereof.

**(2) Qualified New York Liberty Zone property**

For purposes of this subsection, the term “qualified New York Liberty Zone property” has the meaning given such term by subsection (b)(2), determined without regard to subparagraph (C)(i) thereof.

**(3) Recapture**

Rules similar to the rules under section 179(d)(10) shall apply with respect to any qualified New York Liberty Zone property which ceases to be used in the New York Liberty Zone.

**(g) Extension of replacement period for non-recognition of gain**

Notwithstanding subsections (g) and (h) of section 1033, clause (i) of section 1033(a)(2)(B) shall be applied by substituting “5 years” for “2 years” with respect to property which is compulsorily or involuntarily converted as a result of the terrorist attacks on September 11, 2001, in the New York Liberty Zone but only if substantially all of the use of the replacement property is in the City of New York, New York.

**(h) New York Liberty Zone**

For purposes of this section, the term “New York Liberty Zone” means the area located on or south of Canal Street, East Broadway (east of its intersection with Canal Street), or Grand Street (east of its intersection with East Broadway) in the Borough of Manhattan in the City of New York, New York.

**(i) References to Governor and Mayor**

For purposes of this section, the terms “Governor” and “Mayor” mean the Governor of the State of New York and the Mayor of the City of New York, New York, respectively.

(Added Pub. L. 107-147, title III, §301(a), Mar. 9, 2002, 116 Stat. 33; amended Pub. L. 108-27, title II, §201(c)(2), May 28, 2003, 117 Stat. 757; Pub. L. 108-311, title III, §309(a)-(c), title IV, §403(c), Oct. 4, 2004, 118 Stat. 1179, 1180, 1187; Pub. L. 109-135, title IV, §§405(a)(2), 412(ss), Dec. 21, 2005, 119 Stat. 2634, 2640; Pub. L. 110-185, title I, §103(c)(8), Feb. 13, 2008, 122 Stat. 619; Pub. L. 111-240, title II, §202(b)(6), Sept. 27, 2010, 124 Stat. 2558; Pub. L. 111-312, title IV, §401(d)(6), title VII, §761(a), Dec. 17, 2010, 124 Stat. 3306, 3323.)

## REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsecs. (d)(2)(D) and (e)(1), is the date of enactment of Pub. L. 107-147, which was approved Mar. 9, 2002.

## AMENDMENTS

2010—Subsec. (b)(2)(D). Pub. L. 111-312, §401(d)(6), substituted “January 1, 2013” for “January 1, 2011”.

Pub. L. 111-240 substituted “January 1, 2011” for “January 1, 2010”.

Subsec. (d)(2)(D). Pub. L. 111-312, § 761(a), substituted “2012” for “2010”.

2008—Subsec. (b)(2)(D). Pub. L. 110-185 substituted “January 1, 2010” for “January 1, 2005”.

2005—Subsec. (b)(2)(C)(ii). Pub. L. 109-135, § 412(ss)(1), substituted “section 168(k)(2)(D)(i)” for “section 168(k)(2)(C)(i)”.

Subsec. (b)(2)(C)(iv). Pub. L. 109-135, § 412(ss)(2), substituted “section 168(k)(2)(D)(iii)” for “section 168(k)(2)(C)(iii)”.

Subsec. (b)(2)(D). Pub. L. 109-135, § 412(ss)(3), substituted “section 168(k)(2)(E)” for “section 168(k)(2)(D)”.

Pub. L. 109-135, § 405(a)(2), substituted “January 1, 2005” for “September 11, 2004”.

Subsec. (b)(2)(E). Pub. L. 109-135, § 412(ss)(4), substituted “section 168(k)(2)(G)” for “section 168(k)(2)(F)”.

Subsec. (c)(5). Pub. L. 109-135, § 412(ss)(5), substituted “section 168(k)(2)(D)(iii)” for “section 168(k)(2)(C)(iii)”.

2004—Subsec. (a)(2)(D). Pub. L. 108-311, § 403(c)(1)(A), substituted “subchapter A” for “subchapter B” in introductory provisions.

Subsec. (a)(2)(D)(ii). Pub. L. 108-311, § 403(c)(1)(B), substituted “this paragraph” for “subparagraph (B)”.

Subsec. (b)(2)(D). Pub. L. 108-311, § 403(c)(2), inserted “, and clause (iv) thereof shall be applied by substituting ‘qualified New York Liberty Zone property’ for ‘qualified property’” before period at end.

Subsec. (c)(5). Pub. L. 108-311, § 403(c)(3), added par. (5).

Subsec. (d)(2)(D). Pub. L. 108-311, § 309(a), substituted “2010” for “2005”.

Subsec. (e)(1). Pub. L. 108-311, § 309(b), substituted “2006” for “2005”.

Subsec. (e)(2)(B). Pub. L. 108-311, § 309(c), substituted “or the Municipal Assistance Corporation, or” for “, or” at end.

Subsec. (f)(2). Pub. L. 108-311, § 403(c)(4), inserted “, determined without regard to subparagraph (C)(i) thereof” before period at end.

2003—Subsec. (b)(2)(C)(i). Pub. L. 108-27, which directed amendment of heading by substituting “Bonus depreciation property under section 168(k)” for “30-percent additional allowance property”, was executed by making the substitution for “30 percent additional allowance property” to reflect the probable intent of Congress.

#### EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by section 401(d)(6) of Pub. L. 111-312 applicable to property placed in service after Dec. 31, 2010, in taxable years ending after such date, see section 401(e)(1) of Pub. L. 111-312, set out as a note under section 168 of this title.

Pub. L. 111-312, title VII, § 761(b), Dec. 17, 2010, 124 Stat. 3323, provided that: “The amendment made by this section [amending this section] shall apply to bonds issued after December 31, 2009.”

Amendment by Pub. L. 111-240 applicable to property placed in service after Dec. 31, 2009, in taxable years ending after such date, see section 2022(c) of Pub. L. 111-240, set out as a note under section 168 of this title.

#### EFFECTIVE DATE OF 2008 AMENDMENT

Amendment by Pub. L. 110-185 applicable to property placed in service after Dec. 31, 2007, in taxable years ending after such date, see section 103(d) of Pub. L. 110-185, set out as a note under section 168 of this title.

#### EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by section 405(a)(2) of Pub. L. 109-135 effective as if included in section 201 of the Jobs and Growth Tax Relief Reconciliation Act of 2003, Pub. L. 108-27, see section 405(b) of Pub. L. 109-135, set out as a note under section 168 of this title.

#### EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-311, title III, § 309(d), Oct. 4, 2004, 118 Stat. 1180, provided that: “The amendment made by sub-

section (c) [amending this section] shall take effect as if included in the amendments made by section 301 of the Job Creation and Worker Assistance Act of 2002 [Pub. L. 107-147].”

Amendment by section 403(c) of Pub. L. 108-311 effective as if included in the provisions of the Job Creation and Worker Assistance Act of 2002, Pub. L. 107-147, to which such amendment relates, see section 403(f) of Pub. L. 108-311, set out as a note under section 56 of this title.

#### EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-27 applicable to taxable years ending after May 5, 2003, see section 201(d) of Pub. L. 108-27, set out as a note under section 168 of this title.

### PART II—TAX BENEFITS FOR GO ZONES

Sec.	
1400M.	Definitions.
1400N.	Tax benefits for Gulf Opportunity Zone.
1400O.	Education tax benefits.
1400P.	Housing tax benefits.
1400Q.	Special rules for use of retirement funds.
1400R.	Employment relief.
1400S.	Additional tax relief provisions.
1400T.	Special rules for mortgage revenue bonds.

#### AMENDMENTS

2007—Pub. L. 110-172, § 11(a)(27), Dec. 29, 2007, 121 Stat. 2487, added item 1400T.

2005—Pub. L. 109-135, title I, §§ 102(b), 103(b)(3), title II, § 201(b)(3), Dec. 21, 2005, 119 Stat. 2594, 2595, 2607, added items 1400O to 1400S.

### § 1400M. Definitions

For purposes of this part—

#### (1) Gulf Opportunity Zone

The terms “Gulf Opportunity Zone” and “GO Zone” mean that portion of the Hurricane Katrina disaster area determined by the President to warrant individual or individual and public assistance from the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of Hurricane Katrina.

#### (2) Hurricane Katrina disaster area

The term “Hurricane Katrina disaster area” means an area with respect to which a major disaster has been declared by the President before September 14, 2005, under section 401 of such Act by reason of Hurricane Katrina.

#### (3) Rita GO Zone

The term “Rita GO Zone” means that portion of the Hurricane Rita disaster area determined by the President to warrant individual or individual and public assistance from the Federal Government under such Act by reason of Hurricane Rita.

#### (4) Hurricane Rita disaster area

The term “Hurricane Rita disaster area” means an area with respect to which a major disaster has been declared by the President before October 6, 2005, under section 401 of such Act by reason of Hurricane Rita.

#### (5) Wilma GO Zone

The term “Wilma GO Zone” means that portion of the Hurricane Wilma disaster area determined by the President to warrant individual or individual and public assistance from

the Federal Government under such Act by reason of Hurricane Wilma.

**(6) Hurricane Wilma disaster area**

The term “Hurricane Wilma disaster area” means an area with respect to which a major disaster has been declared by the President before November 14, 2005, under section 401 of such Act by reason of Hurricane Wilma.

(Added Pub. L. 109-135, title I, §101(a), Dec. 21, 2005, 119 Stat. 2578.)

REFERENCES IN TEXT

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in text, is Pub. L. 93-288, May 22, 1974, 88 Stat. 143, as amended, which is classified principally to chapter 68 (§5121 et seq.) of Title 42, The Public Health and Welfare. Section 401 of the Act is classified to section 5170 of Title 42. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

EFFECTIVE DATE

Section applicable to taxable years ending on or after August 28, 2005, see section 101(c)(1) of Pub. L. 109-135, set out as an Effective Date note under section 1400N of this title.

**§ 1400N. Tax benefits for Gulf Opportunity Zone**

**(a) Tax-exempt bond financing**

**(1) In general**

For purposes of this title—

(A) any qualified Gulf Opportunity Zone Bond described in paragraph (2)(A)(i) shall be treated as an exempt facility bond, and

(B) any qualified Gulf Opportunity Zone Bond described in paragraph (2)(A)(ii) shall be treated as a qualified mortgage bond.

**(2) Qualified Gulf Opportunity Zone Bond**

For purposes of this subsection, the term “qualified Gulf Opportunity Zone Bond” means any bond issued as part of an issue if—

(A)(i) 95 percent or more of the net proceeds (as defined in section 150(a)(3)) of such issue are to be used for qualified project costs, or

(ii) such issue meets the requirements of a qualified mortgage issue, except as otherwise provided in this subsection,

(B) such bond is issued by the State of Alabama, Louisiana, or Mississippi, or any political subdivision thereof,

(C) such bond is designated for purposes of this section by—

(i) in the case of a bond which is required under State law to be approved by the bond commission of such State, such bond commission, and

(ii) in the case of any other bond, the Governor of such State,

(D) such bond is issued after the date of the enactment of this section and before January 1, 2012, and

(E) no portion of the proceeds of such issue is to be used to provide any property described in section 144(c)(6)(B).

**(3) Limitations on bonds**

**(A) Aggregate amount designated**

The maximum aggregate face amount of bonds which may be designated under this

subsection with respect to any State shall not exceed the product of \$2,500 multiplied by the portion of the State population which is in the Gulf Opportunity Zone (as determined on the basis of the most recent census estimate of resident population released by the Bureau of Census before August 28, 2005).

**(B) Movable property**

No bonds shall be issued which are to be used for movable fixtures and equipment.

**(4) Qualified project costs**

For purposes of this subsection, the term “qualified project costs” means—

(A) the cost of any qualified residential rental project (as defined in section 142(d)) located in the Gulf Opportunity Zone, and

(B) the cost of acquisition, construction, reconstruction, and renovation of—

(i) nonresidential real property (including fixed improvements associated with such property) located in the Gulf Opportunity Zone, and

(ii) public utility property (as defined in section 168(i)(10)) located in the Gulf Opportunity Zone.

**(5) Special rules**

In applying this title to any qualified Gulf Opportunity Zone Bond, the following modifications shall apply:

(A) Section 142(d)(1) (defining qualified residential rental project) shall be applied—

(i) by substituting “60 percent” for “50 percent” in subparagraph (A) thereof, and

(ii) by substituting “70 percent” for “60 percent” in subparagraph (B) thereof.

(B) Section 143 (relating to mortgage revenue bonds: qualified mortgage bond and qualified veterans’ mortgage bond) shall be applied—

(i) only with respect to owner-occupied residences in the Gulf Opportunity Zone,

(ii) by treating any such residence in the Gulf Opportunity Zone as a targeted area residence,

(iii) by applying subsection (f)(3) thereof without regard to subparagraph (A) thereof, and

(iv) by substituting “\$150,000” for “\$15,000” in subsection (k)(4) thereof.

(C) Except as provided in section 143, repayments of principal on financing provided by the issue of which such bond is a part may not be used to provide financing.

(D) Section 146 (relating to volume cap) shall not apply.

(E) Section 147(d)(2) (relating to acquisition of existing property not permitted) shall be applied by substituting “50 percent” for “15 percent” each place it appears.

(F) Section 148(f)(4)(C) (relating to exception from rebate for certain proceeds to be used to finance construction expenditures) shall apply to the available construction proceeds of bonds which are part of an issue described in paragraph (2)(A)(i).

(G) Section 57(a)(5) (relating to tax-exempt interest) shall not apply.

**(6) Separate issue treatment of portions of an issue**

This subsection shall not apply to the portion of an issue which (if issued as a separate issue) would be treated as a qualified bond or as a bond that is not a private activity bond (determined without regard to paragraph (1)), if the issuer elects to so treat such portion.

**(7) Special rule for repairs and reconstructions****(A) In general**

For purposes of section 143 and this subsection, any qualified GO Zone repair or reconstruction shall be treated as a qualified rehabilitation.

**(B) Qualified Go Zone repair or reconstruction**

For purposes of subparagraph (A), the term “qualified GO Zone repair or reconstruction” means any repair of damage caused by Hurricane Katrina, Hurricane Rita, or Hurricane Wilma to a building located in the Gulf Opportunity Zone, the Rita GO Zone, or the Wilma GO Zone (or reconstruction of such building in the case of damage constituting destruction) if the expenditures for such repair or reconstruction are 25 percent or more of the mortgagor’s adjusted basis in the residence. For purposes of the preceding sentence, the mortgagor’s adjusted basis shall be determined as of the completion of the repair or reconstruction or, if later, the date on which the mortgagor acquires the residence.

**(C) Termination**

This paragraph shall apply only to owner-financing provided after the date of the enactment of this paragraph and before January 1, 2012.

**(8) Inclusion of certain counties**

For purposes of this subsection, the Gulf Opportunity Zone includes Colbert County, Alabama and Dallas County, Alabama.

**(b) Advance refundings of certain tax-exempt bonds****(1) In general**

With respect to a bond described in paragraph (3), one additional advance refunding after the date of the enactment of this section and before January 1, 2011, shall be allowed under the applicable rules of section 149(d) if—

(A) the Governor of the State designates the advance refunding bond for purposes of this subsection, and

(B) the requirements of paragraph (5) are met.

**(2) Certain private activity bonds**

With respect to a bond described in paragraph (3) which is an exempt facility bond described in paragraph (1) or (2) of section 142(a), one advance refunding after the date of the enactment of this section and before January 1, 2011, shall be allowed under the applicable rules of section 149(d) (notwithstanding paragraph (2) thereof) if the requirements of subparagraphs (A) and (B) of paragraph (1) are met.

**(3) Bonds described**

A bond is described in this paragraph if such bond was outstanding on August 28, 2005, and is issued by the State of Alabama, Louisiana, or Mississippi, or a political subdivision thereof.

**(4) Aggregate limit**

The maximum aggregate face amount of bonds which may be designated under this subsection by the Governor of a State shall not exceed—

(A) \$4,500,000,000 in the case of the State of Louisiana,

(B) \$2,250,000,000 in the case of the State of Mississippi, and

(C) \$1,125,000,000 in the case of the State of Alabama.

**(5) Additional requirements**

The requirements of this paragraph are met with respect to any advance refunding of a bond described in paragraph (3) if—

(A) no advance refundings of such bond would be allowed under this title on or after August 28, 2005,

(B) the advance refunding bond is the only other outstanding bond with respect to the refunded bond, and

(C) the requirements of section 148 are met with respect to all bonds issued under this subsection.

**(6) Use of proceeds requirement**

This subsection shall not apply to any advance refunding of a bond which is issued as part of an issue if any portion of the proceeds of such issue (or any prior issue) was (or is to be) used to provide any property described in section 144(c)(6)(B).

**(c) Low-income housing credit****(1) Additional housing credit dollar amount for Gulf Opportunity Zone****(A) In general**

For purposes of section 42, in the case of calendar years 2006, 2007, and 2008, the State housing credit ceiling of each State, any portion of which is located in the Gulf Opportunity Zone, shall be increased by the lesser of—

(i) the aggregate housing credit dollar amount allocated by the State housing credit agency of such State to buildings located in the Gulf Opportunity Zone for such calendar year, or

(ii) the Gulf Opportunity housing amount for such State for such calendar year.

**(B) Gulf Opportunity housing amount**

For purposes of subparagraph (A), the term “Gulf Opportunity housing amount” means, for any calendar year, the amount equal to the product of \$18.00 multiplied by the portion of the State population which is in the Gulf Opportunity Zone (as determined on the basis of the most recent census estimate of resident population released by the Bureau of Census before August 28, 2005).

**(C) Allocations treated as made first from additional allocation amount for purposes of determining carryover**

For purposes of determining the unused State housing credit ceiling under section 42(h)(3)(C) for any calendar year, any increase in the State housing credit ceiling under subparagraph (A) shall be treated as an amount described in clause (ii) of such section.

**(2) Additional housing credit dollar amount for Texas and Florida**

For purposes of section 42, in the case of calendar year 2006, the State housing credit ceiling of Texas and Florida shall each be increased by \$3,500,000.

**(3) Difficult development area**

**(A) In general**

For purposes of section 42, in the case of property placed in service during the period beginning on January 1, 2006, and ending on December 31, 2010, the Gulf Opportunity Zone, the Rita GO Zone, and the Wilma GO Zone—

(i) shall be treated as difficult development areas designated under subclause (I) of section 42(d)(5)(C)(iii),<sup>1</sup> and

(ii) shall not be taken into account for purposes of applying the limitation under subclause (II) of such section.

**(B) Application**

Subparagraph (A) shall apply only to—

(i) housing credit dollar amounts allocated during the period beginning on January 1, 2006, and ending on December 31, 2008, and

(ii) buildings placed in service during the period described in subparagraph (A) to the extent that paragraph (1) of section 42(h) does not apply to any building by reason of paragraph (4) thereof, but only with respect to bonds issued after December 31, 2005.

**(4) Special rule for applying income tests**

In the case of property placed in service—

(A) during 2006, 2007, or 2008,

(B) in the Gulf Opportunity Zone, and

(C) in a nonmetropolitan area (as defined in section 42(d)(5)(C)(iv)(IV)),<sup>1</sup>

section 42 shall be applied by substituting “national nonmetropolitan median gross income (determined under rules similar to the rules of section 142(d)(2)(B))” for “area median gross income” in subparagraphs (A) and (B) of section 42(g)(1).

**(5) Time for making low-income housing credit allocations**

Section 42(h)(1)(B) shall not apply to an allocation of housing credit dollar amount to a building located in the Gulf Opportunity Zone, the Rita GO Zone, or the Wilma GO Zone, if such allocation is made in 2006, 2007, or 2008, and such building is placed in service before January 1, 2012.

**(6) Community development block grants not taken into account in determining if buildings are federally subsidized**

For purpose of applying section 42(i)(2)(D)<sup>1</sup> to any building which is placed in service in the Gulf Opportunity Zone, the Rita GO Zone, or the Wilma GO Zone during the period beginning on January 1, 2006, and ending on December 31, 2010, a loan shall not be treated as a below market Federal loan solely by reason of any assistance provided under section 106, 107, or 108 of the Housing and Community Development Act of 1974 by reason of section 122 of such Act or any provision of the Department of Defense Appropriations Act, 2006, or the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006.

**(7) Definitions**

Any term used in this subsection which is also used in section 42 shall have the same meaning as when used in such section.

**(d) Special allowance for certain property acquired on or after August 28, 2005**

**(1) Additional allowance**

In the case of any qualified Gulf Opportunity Zone property—

(A) the depreciation deduction provided by section 167(a) for the taxable year in which such property is placed in service shall include an allowance equal to 50 percent of the adjusted basis of such property, and

(B) the adjusted basis of the qualified Gulf Opportunity Zone property shall be reduced by the amount of such deduction before computing the amount otherwise allowable as a depreciation deduction under this chapter for such taxable year and any subsequent taxable year.

**(2) Qualified Gulf Opportunity Zone property**

For purposes of this subsection—

**(A) In general**

The term “qualified Gulf Opportunity Zone property” means property—

(i)(I) which is described in section 168(k)(2)(A)(i), or

(II) which is nonresidential real property or residential rental property,

(ii) substantially all of the use of which is in the Gulf Opportunity Zone and is in the active conduct of a trade or business by the taxpayer in such Zone,

(iii) the original use of which in the Gulf Opportunity Zone commences with the taxpayer on or after August 28, 2005,

(iv) which is acquired by the taxpayer by purchase (as defined in section 179(d)) on or after August 28, 2005, but only if no written binding contract for the acquisition was in effect before August 28, 2005, and

(v) which is placed in service by the taxpayer on or before December 31, 2007 (December 31, 2008, in the case of nonresidential real property and residential rental property).

<sup>1</sup> See References in Text note below.



**(B) Exceptions****(i) Alternative depreciation property**

Such term shall not include any property described in section 168(k)(2)(D)(i).

**(ii) Tax-exempt bond-financed property**

Such term shall not include any property any portion of which is financed with the proceeds of any obligation the interest on which is exempt from tax under section 103.

**(iii) Qualified revitalization buildings**

Such term shall not include any qualified revitalization building with respect to which the taxpayer has elected the application of paragraph (1) or (2) of section 1400I(a).

**(iv) Election out**

If a taxpayer makes an election under this clause with respect to any class of property for any taxable year, this subsection shall not apply to all property in such class placed in service during such taxable year.

**(3) Special rules**

For purposes of this subsection, rules similar to the rules of subparagraph (E) of section 168(k)(2) shall apply, except that such subparagraph shall be applied—

(A) by substituting “August 27, 2005” for “December 31, 2007” each place it appears therein,

(B) without regard to “and before January 1, 2013” in clause (i) thereof, and

(C) by substituting “qualified Gulf Opportunity Zone property” for “qualified property” in clause (iv) thereof.

**(4) Allowance against alternative minimum tax**

For purposes of this subsection, rules similar to the rules of section 168(k)(2)(G) shall apply.

**(5) Recapture**

For purposes of this subsection, rules similar to the rules under section 179(d)(10) shall apply with respect to any qualified Gulf Opportunity Zone property which ceases to be qualified Gulf Opportunity Zone property.

**(6) Extension for certain property****(A) In general**

In the case of any specified Gulf Opportunity Zone extension property, paragraph (2)(A) shall be applied without regard to clause (v) thereof.

**(B) Specified Gulf Opportunity Zone extension property**

For purposes of this paragraph, the term “specified Gulf Opportunity Zone extension property” means property—

(i) substantially all of the use of which is in one or more specified portions of the GO Zone, and

(ii) which is—

(I) nonresidential real property or residential rental property which is placed in service by the taxpayer on or before December 31, 2011, or

(II) in the case of a taxpayer who places a building described in subclause (I) in service on or before December 31, 2011, property described in section 168(k)(2)(A)(i) if substantially all of the use of such property is in such building and such property is placed in service by the taxpayer not later than 90 days after such building is placed in service.

**(C) Specified portions of the GO Zone**

For purposes of this paragraph, the term “specified portions of the GO Zone” means those portions of the GO Zone which are in any county or parish which is identified by the Secretary as being a county or parish in which hurricanes occurring during 2005 damaged (in the aggregate) more than 60 percent of the housing units in such county or parish which were occupied (determined according to the 2000 Census).

**(D) Only pre-January 1, 2012, basis of real property eligible for additional allowance**

In the case of property which is qualified Gulf Opportunity Zone property solely by reason of subparagraph (B)(ii)(I), paragraph (1) shall apply only to the extent of the adjusted basis thereof attributable to manufacture, construction, or production before January 1, 2012.

**(E) Exception for bonus depreciation property under section 168(k)**

The term “specified Gulf Opportunity Zone extension property” shall not include any property to which section 168(k) applies.

**(e) Increase in expensing under section 179****(1) In general**

For purposes of section 179—

(A) the dollar amount in effect under section 179(b)(1) for the taxable year shall be increased by the lesser of—

(i) \$100,000, or

(ii) the cost of qualified section 179 Gulf Opportunity Zone property placed in service during the taxable year, and

(B) the dollar amount in effect under section 179(b)(2) for the taxable year shall be increased by the lesser of—

(i) \$600,000, or

(ii) the cost of qualified section 179 Gulf Opportunity Zone property placed in service during the taxable year.

**(2) Qualified section 179 Gulf Opportunity Zone property**

For purposes of this subsection—

**(A) In general**

The term “qualified section 179 Gulf Opportunity Zone property” means section 179 property (as defined in section 179(d)) which is qualified Gulf Opportunity Zone property (as defined in subsection (d)(2) without regard to subsection (d)(6)).

**(B) Extension for certain property**

In the case of property substantially all of the use of which is in one or more specified portions of the GO Zone (as defined by sub-

section (d)(6)), such term shall include section 179 property (as so defined) which is described in subsection (d)(2), determined—

- (i) without regard to subsection (d)(6), and
- (ii) by substituting “2008” for “2007” in subparagraph (A)(v) thereof.

**(3) Coordination with empowerment zones and renewal communities**

For purposes of sections 1397A and 1400J, qualified section 179 Gulf Opportunity Zone property shall not be treated as qualified zone property or qualified renewal property, unless the taxpayer elects not to take such qualified section 179 Gulf Opportunity Zone property into account for purposes of this subsection.

**(4) Recapture**

For purposes of this subsection, rules similar to the rules under section 179(d)(10) shall apply with respect to any qualified section 179 Gulf Opportunity Zone property which ceases to be qualified section 179 Gulf Opportunity Zone property.

**(f) Expensing for certain demolition and clean-up costs**

**(1) In general**

A taxpayer may elect to treat 50 percent of any qualified Gulf Opportunity Zone clean-up cost as an expense which is not chargeable to capital account. Any cost so treated shall be allowed as a deduction for the taxable year in which such cost is paid or incurred.

**(2) Qualified Gulf Opportunity Zone clean-up cost**

For purposes of this subsection, the term “qualified Gulf Opportunity Zone clean-up cost” means any amount paid or incurred during the period beginning on August 28, 2005, and ending on December 31, 2007, for the removal of debris from, or the demolition of structures on, real property which is located in the Gulf Opportunity Zone and which is—

- (A) held by the taxpayer for use in a trade or business or for the production of income, or
- (B) property described in section 1221(a)(1) in the hands of the taxpayer.

For purposes of the preceding sentence, amounts paid or incurred shall be taken into account only to the extent that such amount would (but for paragraph (1)) be chargeable to capital account.

**(g) Extension of expensing for environmental remediation costs**

With respect to any qualified environmental remediation expenditure (as defined in section 198(b)) paid or incurred on or after August 28, 2005, in connection with a qualified contaminated site located in the Gulf Opportunity Zone, section 198 (relating to expensing of environmental remediation costs) shall be applied—

- (1) in the case of expenditures paid or incurred on or after August 28, 2005, and before January 1, 2008, by substituting “December 31, 2007” for the date contained in section 198(h), and
- (2) except as provided in section 198(d)(2), by treating petroleum products (as defined in section 4612(a)(3)) as a hazardous substance.

**(h) Increase in rehabilitation credit**

In the case of qualified rehabilitation expenditures (as defined in section 47(c)) paid or incurred during the period beginning on August 28, 2005, and ending on December 31, 2011, with respect to any qualified rehabilitated building or certified historic structure (as defined in section 47(c)) located in the Gulf Opportunity Zone, subsection (a) of section 47 (relating to rehabilitation credit) shall be applied—

- (1) by substituting “13 percent” for “10 percent” in paragraph (1) thereof, and
- (2) by substituting “26 percent” for “20 percent” in paragraph (2) thereof.

**(i) Special rules for small timber producers**

**(1) Increased expensing for qualified timber property**

In the case of qualified timber property any portion of which is located in the Gulf Opportunity Zone, in that portion of the Rita GO Zone which is not part of the Gulf Opportunity Zone, or in the Wilma GO Zone, the limitation under subparagraph (B) of section 194(b)(1) shall be increased by the lesser of—

- (A) the limitation which would (but for this subsection) apply under such subparagraph, or
- (B) the amount of reforestation expenditures (as defined in section 194(c)(3)) paid or incurred by the taxpayer with respect to such qualified timber property during the specified portion of the taxable year.

**(2) 5 year NOL carryback of certain timber losses**

For purposes of determining any farming loss under section 172(i), income and deductions which are allocable to the specified portion of the taxable year and which are attributable to qualified timber property any portion of which is located in the Gulf Opportunity Zone, in that portion of the Rita GO Zone which is not part of the Gulf Opportunity Zone, or in the Wilma GO Zone shall be treated as attributable to farming businesses.

**(3) Rules not applicable to certain entities**

Paragraphs (1) and (2) shall not apply to any taxpayer which—

- (A) is a corporation the stock of which is publicly traded on an established securities market, or
- (B) is a real estate investment trust.

**(4) Rules not applicable to large timber producers**

**(A) Expensing**

Paragraph (1) shall not apply to any taxpayer if such taxpayer holds more than 500 acres of qualified timber property at any time during the taxable year.

**(B) NOL carryback**

Paragraph (2) shall not apply with respect to any qualified timber property unless—

- (i) such property was held by the taxpayer—
  - (I) on August 28, 2005, in the case of qualified timber property any portion of which is located in the Gulf Opportunity Zone,

(II) on September 23, 2005, in the case of qualified timber property (other than property described in subclause (I)) any portion of which is located in that portion of the Rita GO Zone which is not part of the Gulf Opportunity Zone, or

(III) on October 23, 2005, in the case of qualified timber property (other than property described in subclause (I) or (II)) any portion of which is located in the Wilma GO Zone, and

(ii) such taxpayer held not more than 500 acres of qualified timber property on such date.

#### **(5) Definitions**

For purposes of this subsection—

##### **(A) Specified portion**

###### **(i) In general**

The term “specified portion” means—

(I) in the case of qualified timber property any portion of which is located in the Gulf Opportunity Zone, that portion of the taxable year which is on or after August 28, 2005, and before the termination date,

(II) in the case of qualified timber property (other than property described in clause (i)) any portion of which is located in the Rita GO Zone, that portion of the taxable year which is on or after September 23, 2005, and before the termination date, or

(III) in the case of qualified timber property (other than property described in clause (i) or (ii)) any portion of which is located in the Wilma GO Zone, that portion of the taxable year which is on or after October 23, 2005, and before the termination date.

###### **(ii) Termination date**

The term “termination date” means—

(I) for purposes of paragraph (1), January 1, 2008, and

(II) for purposes of paragraph (2), January 1, 2007.

##### **(B) Qualified timber property**

The term “qualified timber property” has the meaning given such term in section 194(c)(1).

#### **(j) Special rule for Gulf Opportunity Zone public utility casualty losses**

##### **(1) In general**

The amount described in section 172(f)(1)(A) for any taxable year shall be increased by the Gulf Opportunity Zone public utility casualty loss for such taxable year.

##### **(2) Gulf Opportunity Zone public utility casualty loss**

For purposes of this subsection, the term “Gulf Opportunity Zone public utility casualty loss” means any casualty loss of public utility property (as defined in section 168(i)(10)) located in the Gulf Opportunity Zone if—

(A) such loss is allowed as a deduction under section 165 for the taxable year,

(B) such loss is by reason of Hurricane Katrina, and

(C) the taxpayer elects the application of this subsection with respect to such loss.

#### **(3) Reduction for gains from involuntary conversion**

The amount of any Gulf Opportunity Zone public utility casualty loss which would (but for this paragraph) be taken into account under paragraph (1) for any taxable year shall be reduced by the amount of any gain recognized by the taxpayer for such year from the involuntary conversion by reason of Hurricane Katrina of public utility property (as so defined) located in the Gulf Opportunity Zone.

#### **(4) Coordination with general disaster loss rules**

Subsection (k) and section 165(i) shall not apply to any Gulf Opportunity Zone public utility casualty loss to the extent such loss is taken into account under paragraph (1).

#### **(5) Election**

Any election under paragraph (2)(C) shall be made in such manner as may be prescribed by the Secretary and shall be made by the due date (including extensions of time) for filing the taxpayer’s return for the taxable year of the loss. Such election, once made for any taxable year, shall be irrevocable for such taxable year.

#### **(k) Treatment of net operating losses attributable to Gulf Opportunity Zone losses**

##### **(1) In general**

If a portion of any net operating loss of the taxpayer for any taxable year is a qualified Gulf Opportunity Zone loss, the following rules shall apply:

##### **(A) Extension of carryback period**

Section 172(b)(1) shall be applied with respect to such portion—

(i) by substituting “5 taxable years” for “2 taxable years” in subparagraph (A)(i), and

(ii) by not taking such portion into account in determining any eligible loss of the taxpayer under subparagraph (F) thereof for the taxable year.

##### **(B) Suspension of 90 percent AMT limitation**

Section 56(d)(1) shall be applied by increasing the amount determined under subparagraph (A)(ii)(I) thereof by the sum of the carrybacks and carryovers of any net operating loss attributable to such portion.

#### **(2) Qualified Gulf Opportunity Zone loss**

For purposes of paragraph (1), the term “qualified Gulf Opportunity Zone loss” means the lesser of—

(A) the excess of—

(i) the net operating loss for such taxable year, over

(ii) the specified liability loss for such taxable year to which a 10-year carryback applies under section 172(b)(1)(C), or

(B) the aggregate amount of the following deductions to the extent taken into account in computing the net operating loss for such taxable year:

(i) Any deduction for any qualified Gulf Opportunity Zone casualty loss.

(ii) Any deduction for moving expenses paid or incurred after August 27, 2005, and before January 1, 2008, and allowable under this chapter to any taxpayer in connection with the employment of any individual—

(I) whose principal place of abode was located in the Gulf Opportunity Zone before August 28, 2005,

(II) who was unable to remain in such abode as the result of Hurricane Katrina, and

(III) whose principal place of employment with the taxpayer after such expense is located in the Gulf Opportunity Zone.

For purposes of this clause, the term “moving expenses” has the meaning given such term by section 217(b), except that the taxpayer’s former residence and new residence may be the same residence if the initial vacating of the residence was as the result of Hurricane Katrina.

(iii) Any deduction allowable under this chapter for expenses paid or incurred after August 27, 2005, and before January 1, 2008, to temporarily house any employee of the taxpayer whose principal place of employment is in the Gulf Opportunity Zone.

(iv) Any deduction for depreciation (or amortization in lieu of depreciation) allowable under this chapter with respect to any qualified Gulf Opportunity Zone property (as defined in subsection (d)(2), but without regard to subparagraph (B)(iv) thereof))<sup>1</sup> for the taxable year such property is placed in service.

(v) Any deduction allowable under this chapter for repair expenses (including expenses for removal of debris) paid or incurred after August 27, 2005, and before January 1, 2008, with respect to any damage attributable to Hurricane Katrina and in connection with property which is located in the Gulf Opportunity Zone.

### **(3) Qualified Gulf Opportunity Zone casualty loss**

#### **(A) In general**

For purposes of paragraph (2)(B)(i), the term “qualified Gulf Opportunity Zone casualty loss” means any uncompensated section 1231 loss (as defined in section 1231(a)(3)(B)) of property located in the Gulf Opportunity Zone if—

(i) such loss is allowed as a deduction under section 165 for the taxable year, and

(ii) such loss is by reason of Hurricane Katrina.

#### **(B) Reduction for gains from involuntary conversion**

The amount of qualified Gulf Opportunity Zone casualty loss which would (but for this subparagraph) be taken into account under subparagraph (A) for any taxable year shall be reduced by the amount of any gain recog-

nized by the taxpayer for such year from the involuntary conversion by reason of Hurricane Katrina of property located in the Gulf Opportunity Zone.

### **(C) Coordination with general disaster loss rules**

Section 165(i) shall not apply to any qualified Gulf Opportunity Zone casualty loss to the extent such loss is taken into account under this subsection.

### **(4) Special rules**

For purposes of paragraph (1), rules similar to the rules of paragraphs (2) and (3) of section 172(i) shall apply with respect to such portion.

## **(I) Credit to holders of Gulf tax credit bonds**

### **(1) Allowance of credit**

If a taxpayer holds a Gulf tax credit bond on one or more credit allowance dates of the bond occurring during any taxable year, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of the credits determined under paragraph (2) with respect to such dates.

### **(2) Amount of credit**

#### **(A) In general**

The amount of the credit determined under this paragraph with respect to any credit allowance date for a Gulf tax credit bond is 25 percent of the annual credit determined with respect to such bond.

#### **(B) Annual credit**

The annual credit determined with respect to any Gulf tax credit bond is the product of—

(i) the credit rate determined by the Secretary under subparagraph (C) for the day on which such bond was sold, multiplied by

(ii) the outstanding face amount of the bond.

### **(C) Determination**

For purposes of subparagraph (B), with respect to any Gulf tax credit bond, the Secretary shall determine daily or cause to be determined daily a credit rate which shall apply to the first day on which there is a binding, written contract for the sale or exchange of the bond. The credit rate for any day is the credit rate which the Secretary or the Secretary’s designee estimates will permit the issuance of Gulf tax credit bonds with a specified maturity or redemption date without discount and without interest cost to the issuer.

### **(D) Credit allowance date**

For purposes of this subsection, the term “credit allowance date” means March 15, June 15, September 15, and December 15. Such term also includes the last day on which the bond is outstanding.

### **(E) Special rule for issuance and redemption**

In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this paragraph with respect to such credit allowance date shall be a rat-

<sup>1</sup> So in original. The second parenthesis probably should not appear.

able portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed or matures.

**(3) Limitation based on amount of tax**

The credit allowed under paragraph (1) for any taxable year shall not exceed the excess of—

(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

(B) the sum of the credits allowable under part IV of subchapter A (other than subparts C, I, and J and this subsection).

**(4) Gulf tax credit bond**

For purposes of this subsection—

**(A) In general**

The term “Gulf tax credit bond” means any bond issued as part of an issue if—

(i) the bond is issued by the State of Alabama, Louisiana, or Mississippi,

(ii) 95 percent or more of the proceeds of such issue are to be used to—

(I) pay principal, interest, or premiums on qualified bonds issued by such State or any political subdivision of such State, or

(II) make a loan to any political subdivision of such State to pay principal, interest, or premiums on qualified bonds issued by such political subdivision,

(iii) the Governor of such State designates such bond for purposes of this subsection,

(iv) the bond is a general obligation of such State and is in registered form (within the meaning of section 149(a)),

(v) the maturity of such bond does not exceed 2 years, and

(vi) the bond is issued after December 31, 2005, and before January 1, 2007.

**(B) State matching requirement**

A bond shall not be treated as a Gulf tax credit bond unless—

(i) the issuer of such bond pledges as of the date of the issuance of the issue an amount equal to the face amount of such bond to be used for payments described in subclause (I) of subparagraph (A)(ii), or loans described in subclause (II) of such subparagraph, as the case may be, with respect to the issue of which such bond is a part, and

(ii) any such payment or loan is made in equal amounts from the proceeds of such issue and from the amount pledged under clause (i).

The requirement of clause (ii) shall be treated as met with respect to any such payment or loan made during the 1-year period beginning on the date of the issuance (or any successor 1-year period) if such requirement is met when applied with respect to the aggregate amount of such payments and loans made during such period.

**(C) Aggregate limit on bond designations**

The maximum aggregate face amount of bonds which may be designated under this

subsection by the Governor of a State shall not exceed—

(i) \$200,000,000 in the case of the State of Louisiana,

(ii) \$100,000,000 in the case of the State of Mississippi, and

(iii) \$50,000,000 in the case of the State of Alabama.

**(D) Special rules relating to arbitrage**

A bond which is part of an issue shall not be treated as a Gulf tax credit bond unless, with respect to the issue of which the bond is a part, the issuer satisfies the arbitrage requirements of section 148 with respect to proceeds of the issue and any loans made with such proceeds.

**(5) Qualified bond**

For purposes of this subsection—

**(A) In general**

The term “qualified bond” means any obligation of a State or political subdivision thereof which was outstanding on August 28, 2005.

**(B) Exception for private activity bonds**

Such term shall not include any private activity bond.

**(C) Exception for advance refundings**

Such term shall not include any bond with respect to which there is any outstanding refunded or refunding bond during the period in which a Gulf tax credit bond is outstanding with respect to such bond.

**(D) Use of proceeds requirement**

Such term shall not include any bond issued as part of an issue if any portion of the proceeds of such issue was (or is to be) used to provide any property described in section 144(c)(6)(B).

**(6) Credit included in gross income**

Gross income includes the amount of the credit allowed to the taxpayer under this subsection (determined without regard to paragraph (3)) and the amount so included shall be treated as interest income.

**(7) Other definitions and special rules**

For purposes of this subsection—

**(A) Bond**

The term “bond” includes any obligation.

**(B) Partnership; S corporation; and other pass-thru entities**

**(i) In general**

Under regulations prescribed by the Secretary, in the case of a partnership, trust, S corporation, or other pass-thru entity, rules similar to the rules of section 41(g) shall apply with respect to the credit allowable under paragraph (1).

**(ii) No basis adjustment**

In the case of a bond held by a partnership or an S corporation, rules similar to the rules under section 1397E(l) shall apply.

**(C) Bonds held by regulated investment companies**

If any Gulf tax credit bond is held by a regulated investment company, the credit de-

terminated under paragraph (1) shall be allowed to shareholders of such company under procedures prescribed by the Secretary.

**(D) Reporting**

Issuers of Gulf tax credit bonds shall submit reports similar to the reports required under section 149(e).

**(E) Credit treated as nonrefundable bondholder credit**

For purposes of this title, the credit allowed by this subsection shall be treated as a credit allowable under subpart H of part IV of subchapter A of this chapter.

**(m) Application of new markets tax credit to investments in community development entities serving Gulf Opportunity Zone**

For purposes of section 45D—

(1) a qualified community development entity shall be eligible for an allocation under subsection (f)(2) thereof of the increase in the new markets tax credit limitation described in paragraph (2) only if a significant mission of such entity is the recovery and redevelopment of the Gulf Opportunity Zone,

(2) the new markets tax credit limitation otherwise determined under subsection (f)(1) thereof shall be increased by an amount equal to—

(A) \$300,000,000 for 2005 and 2006, to be allocated among qualified community development entities to make qualified low-income community investments within the Gulf Opportunity Zone, and

(B) \$400,000,000 for 2007, to be so allocated, and

(3) subsection (f)(3) thereof shall be applied separately with respect to the amount of the increase under paragraph (2).

**(n) Treatment of representations regarding income eligibility for purposes of qualified residential rental project requirements**

For purposes of determining if any residential rental project meets the requirements of section 142(d)(1) and if any certification with respect to such project meets the requirements under section 142(d)(7), the operator of the project may rely on the representations of any individual applying for tenancy in such project that such individual's income will not exceed the applicable income limits of section 142(d)(1) upon commencement of the individual's tenancy if such tenancy begins during the 6-month period beginning on and after the date such individual was displaced by reason of Hurricane Katrina.

**(o) Treatment of public utility property disaster losses**

**(1) In general**

Upon the election of the taxpayer, in the case of any eligible public utility property loss—

(A) section 165(i) shall be applied by substituting “the fifth taxable year immediately preceding” for “the taxable year immediately preceding”,

(B) an application for a tentative carry-back adjustment of the tax for any prior tax-

able year affected by the application of subparagraph (A) may be made under section 6411, and

(C) section 6611 shall not apply to any overpayment attributable to such loss.

**(2) Eligible public utility property loss**

For purposes of this subsection—

**(A) In general**

The term “eligible public utility property loss” means any loss with respect to public utility property located in the Gulf Opportunity Zone and attributable to Hurricane Katrina.

**(B) Public utility property**

The term “public utility property” has the meaning given such term by section 168(i)(10) without regard to the matter following subparagraph (D) thereof.

**(3) Waiver of limitations**

If refund or credit of any overpayment of tax resulting from the application of paragraph (1) is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this section by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.

**(p) Tax benefits not available with respect to certain property**

**(1) Qualified Gulf Opportunity Zone property**

For purposes of subsections (d), (e), and (k)(2)(B)(iv), the term “qualified Gulf Opportunity Zone property” shall not include any property described in paragraph (3).

**(2) Qualified Gulf Opportunity Zone casualty losses**

For purposes of subsection (k)(2)(B)(i), the term “qualified Gulf Opportunity Zone casualty loss” shall not include any loss with respect to any property described in paragraph (3).

**(3) Property described**

**(A) In general**

For purposes of this subsection, property is described in this paragraph if such property is—

(i) any property used in connection with any private or commercial golf course, country club, massage parlor, hot tub facility, suntan facility, or any store the principal business of which is the sale of alcoholic beverages for consumption off premises, or

(ii) any gambling or animal racing property.

**(B) Gambling or animal racing property**

For purposes of subparagraph (A)(ii)—

**(i) In general**

The term “gambling or animal racing property” means—

(I) any equipment, furniture, software, or other property used directly in connection with gambling, the racing of ani-

mals, or the on-site viewing of such racing, and

(II) the portion of any real property (determined by square footage) which is dedicated to gambling, the racing of animals, or the on-site viewing of such racing.

**(ii) De minimis portion**

Clause (i)(II) shall not apply to any real property if the portion so dedicated is less than 100 square feet.

(Added Pub. L. 109-135, title I, §101(a), Dec. 21, 2005, 119 Stat. 2579; amended Pub. L. 109-432, div. A, title I, §§107(b)(2), 120(a), (b), Dec. 20, 2006, 120 Stat. 2939, 2943; Pub. L. 110-28, title VIII, §§8221-8223, May 25, 2007, 121 Stat. 194, 195; Pub. L. 110-185, title I, §103(c)(9), (10), Feb. 13, 2008, 122 Stat. 619; Pub. L. 110-234, title XV, §15316(c)(1), May 22, 2008, 122 Stat. 1511; Pub. L. 110-246, §4(a), title XV, §15316(c)(1), June 18, 2008, 122 Stat. 1664, 2273; Pub. L. 110-289, div. C, title III, §3082(b)(1), (c)(1), July 30, 2008, 122 Stat. 2907; Pub. L. 110-343, div. C, title III, §320(a), Oct. 3, 2008, 122 Stat. 3873; Pub. L. 111-5, div. B, title I, §§1201(a)(2)(E), 1531(c)(3), Feb. 17, 2009, 123 Stat. 333, 360; Pub. L. 111-240, title II, §2022(b)(7), Sept. 27, 2010, 124 Stat. 2558; Pub. L. 111-312, title IV, §401(d)(7), title VII, §§762(a), 763, 764(a), 765(a), Dec. 17, 2010, 124 Stat. 3306, 3323, 3324.)

**REFERENCES IN TEXT**

The date of the enactment of this section, referred to in subsecs. (a)(2)(D), (b)(1), (2), and (c)(3), is the date of enactment of Pub. L. 109-135, which was approved Dec. 21, 2005.

The date of the enactment of this paragraph, referred to in subsec. (a)(7)(C), is the date of enactment of Pub. L. 110-28, which was approved May 25, 2007.

Subpar. (C) of section 42(d)(5), referred to in subsec. (c)(3)(A)(i), (4)(C), was redesignated (B) by Pub. L. 110-289, div. C, title I, §3003(g)(3), July 30, 2008, 122 Stat. 2882.

Subpar. (D) of section 42(i)(2), referred to in subsec. (c)(6), was repealed by Pub. L. 110-289, div. C, title I, §3002(b)(2)(C), July 30, 2008, 122 Stat. 2880.

Sections 106, 107, 108, and 122 of the Housing and Community Development Act of 1974, referred to in subsec. (c)(6), are classified to sections 5306, 5307, 5308, and 5321, respectively, of Title 42, The Public Health and Welfare.

The Department of Defense Appropriations Act, 2006, referred to in subsec. (c)(6), is div. A of Pub. L. 109-148, Dec. 30, 2005, 119 Stat. 2680. For complete classification of this Act to the Code, see Tables.

The Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Hurricane Recovery, 2006, referred to in subsec. (c)(6), is Pub. L. 109-234, June 15, 2006, 120 Stat. 418. For complete classification of this Act to the Code, see Tables.

**CODIFICATION**

Pub. L. 110-234 and Pub. L. 110-246 made identical amendments to this section. The amendments by Pub. L. 110-234 were repealed by section 4(a) of Pub. L. 110-246.

**AMENDMENTS**

2010—Subsec. (a)(2)(D), (7)(C). Pub. L. 111-312, §764(a), substituted “January 1, 2012” for “January 1, 2011”.

Subsec. (c)(5). Pub. L. 111-312, §763, substituted “January 1, 2012” for “January 1, 2011”.

Subsec. (d)(3)(B). Pub. L. 111-312, §401(d)(7), substituted “January 1, 2013” for “January 1, 2011”.

Pub. L. 111-240 substituted “January 1, 2011” for “January 1, 2010”.

Subsec. (d)(6)(B)(ii). Pub. L. 111-312, §765(a)(1), substituted “December 31, 2011” for “December 31, 2010” in subcls. (I) and (II).

Subsec. (d)(6)(D). Pub. L. 111-312, §765(a)(2), substituted “January 1, 2012” for “January 1, 2010” in heading and text.

Subsec. (h). Pub. L. 111-312, §762(a), substituted “December 31, 2011” for “December 31, 2009” in introductory provisions.

2009—Subsec. (d)(3)(B). Pub. L. 111-5, §1201(a)(2)(E), substituted “January 1, 2010” for “September 10, 2001”.

Subsec. (l)(3)(B). Pub. L. 111-5, §1531(c)(3), substituted “I, and J” for “and I”.

2008—Subsec. (a)(8). Pub. L. 110-289, §3082(c)(1), added par. (8).

Subsec. (d)(3)(A). Pub. L. 110-185, §103(c)(9)(A), substituted “December 31, 2007” for “September 10, 2001”.

Subsec. (d)(3)(B). Pub. L. 110-289, §3082(b)(1), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “by substituting ‘January 1, 2008’ for ‘January 1, 2009’ in clause (i) thereof, and”.

Pub. L. 110-185, §103(c)(9)(B), substituted “January 1, 2009” for “January 1, 2005”.

Subsec. (d)(6)(E). Pub. L. 110-185, §103(c)(10), added subpar. (E).

Subsec. (h). Pub. L. 110-343 substituted “December 31, 2009” for “December 31, 2008” in introductory provisions.

Subsec. (l)(3)(B). Pub. L. 110-246, §15316(c)(1), substituted “subparts C and I” for “subpart C”.

2007—Subsec. (a)(7). Pub. L. 110-28, §8223, added par. (7).

Subsec. (c)(3)(A). Pub. L. 110-28, §8222(b)(1), substituted “the period beginning on January 1, 2006, and ending on December 31, 2010” for “2006, 2007, or 2008”.

Subsec. (c)(3)(B)(ii). Pub. L. 110-28, §8222(b)(2), substituted “the period described in subparagraph (A)” for “such period”.

Subsec. (c)(5). Pub. L. 110-28, §8222(a), added par. (5). Former par. (5) redesignated (6).

Subsec. (c)(6). Pub. L. 110-28, §8222(c), added par. (6). Former par. (6) redesignated (7).

Pub. L. 110-28, §8222(a), redesignated par. (5) as (6).

Subsec. (c)(7). Pub. L. 110-28, §8222(c), redesignated par. (6) as (7).

Subsec. (e)(2). Pub. L. 110-28, §8221, substituted “this subsection—”, subpar. (A) heading, and “The term” for “this subsection, the term” and added subpar. (B).

2006—Subsec. (d)(6). Pub. L. 109-432, §120(a), added par. (6).

Subsec. (e)(2). Pub. L. 109-432, §120(b), inserted “without regard to subsection (d)(6)” after “subsection (d)(2)”.

Subsec. (l)(7)(B)(ii). Pub. L. 109-432, §107(b)(2), substituted “1397E(l)” for “1397E(i)”.

**EFFECTIVE DATE OF 2010 AMENDMENT**

Amendment by section 401(d)(7) of Pub. L. 111-312 applicable to property placed in service after Dec. 31, 2010, in taxable years ending after such date, see section 401(e)(1) of Pub. L. 111-312, set out as a note under section 168 of this title.

Pub. L. 111-312, title VII, §762(b), Dec. 17, 2010, 124 Stat. 3323, provided that: “The amendment made by this section [amending this section] shall apply to amounts paid or incurred after December 31, 2009.”

Pub. L. 111-312, title VII, §765(b), Dec. 17, 2010, 124 Stat. 3324, provided that: “The amendment made by this section [amending this section] shall apply to property placed in service after December 31, 2009.”

Amendment by Pub. L. 111-240 applicable to property placed in service after Dec. 31, 2009, in taxable years ending after such date, see section 2022(c) of Pub. L. 111-240, set out as a note under section 168 of this title.

**EFFECTIVE DATE OF 2009 AMENDMENT**

Amendment by section 1201(a)(2)(E) of Pub. L. 111-5 applicable to property placed in service after Dec. 31, 2008, in taxable years ending after such date, see sec-

tion 1201(c)(1) of Pub. L. 111-5, set out as a note under section 168 of this title.

Amendment by section 1531(c)(3) of Pub. L. 111-5 applicable to obligations issued after Feb. 17, 2009, see section 1531(e) of Pub. L. 111-5, set out as a note under section 54 of this title.

#### EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-343, div. C, title III, § 320(b), Oct. 3, 2008, 122 Stat. 3873, provided that: “The amendment made by this section [amending this section] shall apply to expenditures paid or incurred after the date of the enactment of this Act [Oct. 3, 2008].”

Pub. L. 110-289, div. C, title III, § 3082(b)(2), July 30, 2008, 122 Stat. 2907, provided that: “The amendment made by this subsection [amending this section] shall apply to property placed in service after December 31, 2007.”

Pub. L. 110-289, div. C, title III, § 3082(c)(2), July 30, 2008, 122 Stat. 2908, provided that: “The amendment made by this subsection [amending this section] shall take effect as if included in the provisions of the Gulf Opportunity Zone Act of 2005 [Pub. L. 109-135] to which it relates.”

Amendment of this section and repeal of Pub. L. 110-234 by Pub. L. 110-246 effective May 22, 2008, the date of enactment of Pub. L. 110-234, except as otherwise provided, see section 4 of Pub. L. 110-246, set out as an Effective Date note under section 8701 of Title 7, Agriculture.

Amendment by section 15316(c)(1) of Pub. L. 110-246 applicable to obligations issued after June 18, 2008, see section 15316(d) of Pub. L. 110-246, set out as a note under section 54 of this title.

Amendment by Pub. L. 110-185 applicable to property placed in service after Dec. 31, 2007, in taxable years ending after such date, see section 103(d) of Pub. L. 110-185, set out as a note under section 168 of this title.

#### EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by section 107(b)(2) of Pub. L. 109-432 applicable to obligations issued after Dec. 20, 2006, pursuant to allocations of the national zone academy bond limitation for calendar years after 2005, see section 107(c) of Pub. L. 109-432, set out as a note under section 1397E of this title.

Pub. L. 109-432, div. A, title I, § 120(c), Dec. 20, 2006, 120 Stat. 2943, provided that: “The amendments made by this section [amending this section] shall take effect as if included in section 101 of the Gulf Opportunity Zone Act of 2005 [Pub. L. 109-135].”

#### EFFECTIVE DATE

Pub. L. 109-135, title I, § 101(c), Dec. 21, 2005, 119 Stat. 2593, provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [enacting this section and section 1400M of this title and amending sections 54 and 6049 of this title] shall apply to taxable years ending on or after August 28, 2005.

“(2) CARRYBACKS.—Subsections (i)(2), (j), and (k) of section 1400N of the Internal Revenue Code of 1986 (as added by this section) shall apply to losses arising in such taxable years.”

### § 1400O. Education tax benefits

In the case of an individual who attends an eligible educational institution (as defined in section 25A(f)(2)) located in the Gulf Opportunity Zone for any taxable year beginning during 2005 or 2006—

(1) in applying section 25A, the term “qualified tuition and related expenses” shall include any costs which are qualified higher education expenses (as defined in section 529(e)(3)),

(2) each of the dollar amounts in effect under subparagraphs (A) and (B) of section 25A(b)(1)

shall be twice the amount otherwise in effect before the application of this subsection, and

(3) section 25A(c)(1) shall be applied by substituting “40 percent” for “20 percent”.

(Added Pub. L. 109-135, title I, § 102(a), Dec. 21, 2005, 119 Stat. 2594; amended Pub. L. 110-172, § 11(a)(26), Dec. 29, 2007, 121 Stat. 2487.)

#### AMENDMENTS

2007—Par. (2). Pub. L. 110-172 substituted “under” for “under of”.

### § 1400P. Housing tax benefits

#### (a) Exclusion of employer provided housing for individual affected by Hurricane Katrina

##### (1) In general

Gross income of a qualified employee shall not include the value of any lodging furnished in-kind to such employee (and such employee's spouse or any of such employee's dependents) by or on behalf of a qualified employer for any month during the taxable year.

##### (2) Limitation

The amount which may be excluded under paragraph (1) for any month for which lodging is furnished during the taxable year shall not exceed \$600.

##### (3) Treatment of exclusion

The exclusion under paragraph (1) shall be treated as an exclusion under section 119 (other than for purposes of sections 3121(a)(19) and 3306(b)(14)).

#### (b) Employer credit for housing employees affected by Hurricane Katrina

For purposes of section 38, in the case of a qualified employer, the Hurricane Katrina housing credit for any month during the taxable year is an amount equal to 30 percent of any amount which is excludable from the gross income of a qualified employee of such employer under subsection (a) and not otherwise excludable under section 119.

##### (c) Qualified employee

For purposes of this section, the term “qualified employee” means, with respect to any month, an individual—

(1) who had a principal residence (as defined in section 121) in the Gulf Opportunity Zone on August 28, 2005, and

(2) who performs substantially all employment services—

(A) in the Gulf Opportunity Zone, and

(B) for the qualified employer which furnishes lodging to such individual.

##### (d) Qualified employer

For purposes of this section, the term “qualified employer” means any employer with a trade or business located in the Gulf Opportunity Zone.

##### (e) Certain rules to apply

For purposes of this subsection, rules similar to the rules of sections 51(i)(1) and 52 shall apply.

##### (f) Application of section

This section shall apply to lodging furnished during the period—



(1) beginning on the first day of the first month beginning after the date of the enactment of this section, and

(2) ending on the date which is 6 months after the first day described in paragraph (1).

(Added Pub. L. 109-135, title I, §103(a), Dec. 21, 2005, 119 Stat. 2594.)

#### REFERENCES IN TEXT

The date of the enactment of this section, referred to in subsec. (f)(1), is the date of enactment of Pub. L. 109-135, which was approved Dec. 21, 2005.

### § 1400Q. Special rules for use of retirement funds

#### (a) Tax-favored withdrawals from retirement plans

##### (1) In general

Section 72(t) shall not apply to any qualified hurricane distribution.

##### (2) Aggregate dollar limitation

###### (A) In general

For purposes of this subsection, the aggregate amount of distributions received by an individual which may be treated as qualified hurricane distributions for any taxable year shall not exceed the excess (if any) of—

(i) \$100,000, over

(ii) the aggregate amounts treated as qualified hurricane distributions received by such individual for all prior taxable years.

###### (B) Treatment of plan distributions

If a distribution to an individual would (without regard to subparagraph (A)) be a qualified hurricane distribution, a plan shall not be treated as violating any requirement of this title merely because the plan treats such distribution as a qualified hurricane distribution, unless the aggregate amount of such distributions from all plans maintained by the employer (and any member of any controlled group which includes the employer) to such individual exceeds \$100,000.

###### (C) Controlled group

For purposes of subparagraph (B), the term “controlled group” means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414.

##### (3) Amount distributed may be repaid

###### (A) In general

Any individual who receives a qualified hurricane distribution may, at any time during the 3-year period beginning on the day after the date on which such distribution was received, make one or more contributions in an aggregate amount not to exceed the amount of such distribution to an eligible retirement plan of which such individual is a beneficiary and to which a rollover contribution of such distribution could be made under section 402(c), 403(a)(4), 403(b)(8), 408(d)(3), or 457(e)(16), as the case may be.

###### (B) Treatment of repayments of distributions from eligible retirement plans other than IRAs

For purposes of this title, if a contribution is made pursuant to subparagraph (A) with

respect to a qualified hurricane distribution from an eligible retirement plan other than an individual retirement plan, then the taxpayer shall, to the extent of the amount of the contribution, be treated as having received the qualified hurricane distribution in an eligible rollover distribution (as defined in section 402(c)(4)) and as having transferred the amount to the eligible retirement plan in a direct trustee to trustee transfer within 60 days of the distribution.

#### (C) Treatment of repayments for distributions from IRAs

For purposes of this title, if a contribution is made pursuant to subparagraph (A) with respect to a qualified hurricane distribution from an individual retirement plan (as defined by section 7701(a)(37)), then, to the extent of the amount of the contribution, the qualified hurricane distribution shall be treated as a distribution described in section 408(d)(3) and as having been transferred to the eligible retirement plan in a direct trustee to trustee transfer within 60 days of the distribution.

#### (4) Definitions

For purposes of this subsection—

##### (A) Qualified hurricane distribution

Except as provided in paragraph (2), the term “qualified hurricane distribution” means—

(i) any distribution from an eligible retirement plan made on or after August 25, 2005, and before January 1, 2007, to an individual whose principal place of abode on August 28, 2005, is located in the Hurricane Katrina disaster area and who has sustained an economic loss by reason of Hurricane Katrina,

(ii) any distribution (which is not described in clause (i)) from an eligible retirement plan made on or after September 23, 2005, and before January 1, 2007, to an individual whose principal place of abode on September 23, 2005, is located in the Hurricane Rita disaster area and who has sustained an economic loss by reason of Hurricane Rita, and

(iii) any distribution (which is not described in clause (i) or (ii)) from an eligible retirement plan made on or after October 23, 2005, and before January 1, 2007, to an individual whose principal place of abode on October 23, 2005, is located in the Hurricane Wilma disaster area and who has sustained an economic loss by reason of Hurricane Wilma.

##### (B) Eligible retirement plan

The term “eligible retirement plan” shall have the meaning given such term by section 402(c)(8)(B).

#### (5) Income inclusion spread over 3-year period

##### (A) In general

In the case of any qualified hurricane distribution, unless the taxpayer elects not to have this paragraph apply for any taxable year, any amount required to be included in

gross income for such taxable year shall be so included ratably over the 3-taxable year period beginning with such taxable year.

**(B) Special rule**

For purposes of subparagraph (A), rules similar to the rules of subparagraph (E) of section 408A(d)(3) shall apply.

**(6) Special rules**

**(A) Exemption of distributions from trustee to trustee transfer and withholding rules**

For purposes of sections 401(a)(31), 402(f), and 3405, qualified hurricane distributions shall not be treated as eligible rollover distributions.

**(B) Qualified hurricane distributions treated as meeting plan distribution requirements**

For purposes<sup>1</sup> this title, a qualified hurricane distribution shall be treated as meeting the requirements of sections 401(k)(2)(B)(i), 403(b)(7)(A)(ii), 403(b)(11), and 457(d)(1)(A).

**(b) Recontributions of withdrawals for home purchases**

**(1) Recontributions**

**(A) In general**

Any individual who received a qualified distribution may, during the applicable period, make one or more contributions in an aggregate amount not to exceed the amount of such qualified distribution to an eligible retirement plan (as defined in section 402(c)(8)(B)) of which such individual is a beneficiary and to which a rollover contribution of such distribution could be made under section 402(c), 403(a)(4), 403(b)(8), or 408(d)(3), as the case may be.

**(B) Treatment of repayments**

Rules similar to the rules of subparagraphs (B) and (C) of subsection (a)(3) shall apply for purposes of this subsection.

**(2) Qualified distribution**

For purposes of this subsection—

**(A) In general**

The term “qualified distribution” means any qualified Katrina distribution, any qualified Rita distribution, and any qualified Wilma distribution.

**(B) Qualified Katrina distribution**

The term “qualified Katrina distribution” means any distribution—

- (i) described in section 401(k)(2)(B)(i)(IV), 403(b)(7)(A)(ii) (but only to the extent such distribution relates to financial hardship), 403(b)(11)(B), or 72(t)(2)(F),
- (ii) received after February 28, 2005, and before August 29, 2005, and
- (iii) which was to be used to purchase or construct a principal residence in the Hurricane Katrina disaster area, but which was not so purchased or constructed on account of Hurricane Katrina.

**(C) Qualified Rita distribution**

The term “qualified Rita distribution” means any distribution (other than a qualified Katrina distribution)—

- (i) described in section 401(k)(2)(B)(i)(IV), 403(b)(7)(A)(ii) (but only to the extent such distribution relates to financial hardship), 403(b)(11)(B), or 72(t)(2)(F),

- (ii) received after February 28, 2005, and before September 24, 2005, and

- (iii) which was to be used to purchase or construct a principal residence in the Hurricane Rita disaster area, but which was not so purchased or constructed on account of Hurricane Rita.

**(D) Qualified Wilma distribution**

The term “qualified Wilma distribution” means any distribution (other than a qualified Katrina distribution or a qualified Rita distribution)—

- (i) described in section 401(k)(2)(B)(i)(IV), 403(b)(7)(A)(ii) (but only to the extent such distribution relates to financial hardship), 403(b)(11)(B), or 72(t)(2)(F),

- (ii) received after February 28, 2005, and before October 24, 2005, and

- (iii) which was to be used to purchase or construct a principal residence in the Hurricane Wilma disaster area, but which was not so purchased or constructed on account of Hurricane Wilma.

**(3) Applicable period**

For purposes of this subsection, the term “applicable period” means—

- (A) with respect to any qualified Katrina distribution, the period beginning on August 25, 2005, and ending on February 28, 2006,

- (B) with respect to any qualified Rita distribution, the period beginning on September 23, 2005, and ending on February 28, 2006, and

- (C) with respect to any qualified Wilma distribution, the period beginning on October 23, 2005, and ending on February 28, 2006.

**(c) Loans from qualified plans**

**(1) Increase in limit on loans not treated as distributions**

In the case of any loan from a qualified employer plan (as defined under section 72(p)(4)) to a qualified individual made during the applicable period—

- (A) clause (i) of section 72(p)(2)(A) shall be applied by substituting “\$100,000” for “\$50,000”, and

- (B) clause (ii) of such section shall be applied by substituting “the present value of the nonforfeitable accrued benefit of the employee under the plan” for “one-half of the present value of the nonforfeitable accrued benefit of the employee under the plan”.

**(2) Delay of repayment**

In the case of a qualified individual with an outstanding loan on or after the qualified beginning date from a qualified employer plan (as defined in section 72(p)(4))—

- (A) if the due date pursuant to subparagraph (B) or (C) of section 72(p)(2) for any repayment with respect to such loan occurs during the period beginning on the qualified beginning date and ending on December 31, 2006, such due date shall be delayed for 1 year,

<sup>1</sup> So in original. Probably should be followed by “of”.

(B) any subsequent repayments with respect to any such loan shall be appropriately adjusted to reflect the delay in the due date under paragraph (1) and any interest accruing during such delay, and

(C) in determining the 5-year period and the term of a loan under subparagraph (B) or (C) of section 72(p)(2), the period described in subparagraph (A) shall be disregarded.

**(3) Qualified individual**

For purposes of this subsection—

**(A) In general**

The term “qualified individual” means any qualified Hurricane Katrina individual, any qualified Hurricane Rita individual, and any qualified Hurricane Wilma individual.

**(B) Qualified Hurricane Katrina individual**

The term “qualified Hurricane Katrina individual” means an individual whose principal place of abode on August 28, 2005, is located in the Hurricane Katrina disaster area and who has sustained an economic loss by reason of Hurricane Katrina.

**(C) Qualified Hurricane Rita individual**

The term “qualified Hurricane Rita individual” means an individual (other than a qualified Hurricane Katrina individual) whose principal place of abode on September 23, 2005, is located in the Hurricane Rita disaster area and who has sustained an economic loss by reason of Hurricane Rita.

**(D) Qualified Hurricane Wilma individual**

The term “qualified Hurricane Wilma individual” means an individual (other than a qualified Hurricane Katrina individual or a qualified Hurricane Rita individual) whose principal place of abode on October 23, 2005, is located in the Hurricane Wilma disaster area and who has sustained an economic loss by reason of Hurricane Wilma.

**(4) Applicable period; qualified beginning date**

For purposes of this subsection—

**(A) Hurricane Katrina**

In the case of any qualified Hurricane Katrina individual—

(i) the applicable period is the period beginning on September 24, 2005, and ending on December 31, 2006, and

(ii) the qualified beginning date is August 25, 2005.

**(B) Hurricane Rita**

In the case of any qualified Hurricane Rita individual—

(i) the applicable period is the period beginning on the date of the enactment of this subsection and ending on December 31, 2006, and

(ii) the qualified beginning date is September 23, 2005.

**(C) Hurricane Wilma**

In the case of any qualified Hurricane Wilma individual—

(i) the applicable period is the period beginning on the date of the enactment of this subparagraph and ending on December 31, 2006, and

(ii) the qualified beginning date is October 23, 2005.

**(d) Provisions relating to plan amendments**

**(1) In general**

If this subsection applies to any amendment to any plan or annuity contract, such plan or contract shall be treated as being operated in accordance with the terms of the plan during the period described in paragraph (2)(B)(i).

**(2) Amendments to which subsection applies**

**(A) In general**

This subsection shall apply to any amendment to any plan or annuity contract which is made—

(i) pursuant to any provision of this section, or pursuant to any regulation issued by the Secretary or the Secretary of Labor under any provision of this section, and

(ii) on or before the last day of the first plan year beginning on or after January 1, 2007, or such later date as the Secretary may prescribe.

In the case of a governmental plan (as defined in section 414(d)), clause (ii) shall be applied by substituting the date which is 2 years after the date otherwise applied under clause (ii).

**(B) Conditions**

This subsection shall not apply to any amendment unless—

(i) during the period—

(I) beginning on the date that this section or the regulation described in subparagraph (A)(i) takes effect (or in the case of a plan or contract amendment not required by this section or such regulation, the effective date specified by the plan), and

(II) ending on the date described in subparagraph (A)(ii) (or, if earlier, the date the plan or contract amendment is adopted),

the plan or contract is operated as if such plan or contract amendment were in effect; and

(ii) such plan or contract amendment applies retroactively for such period.

(Added Pub. L. 109-135, title II, §201(a), Dec. 21, 2005, 119 Stat. 2596.)

REFERENCES IN TEXT

The date of the enactment of this subsection and this subparagraph, referred to in subsec. (c)(4)(B)(i), (C)(i), is the date of enactment of Pub. L. 109-135, which was approved Dec. 21, 2005.

**§ 1400R. Employment relief**

**(a) Employee retention credit for employers affected by Hurricane Katrina**

**(1) In general**

For purposes of section 38, in the case of an eligible employer, the Hurricane Katrina employee retention credit for any taxable year is an amount equal to 40 percent of the qualified wages with respect to each eligible employee of such employer for such taxable year. For

purposes of the preceding sentence, the amount of qualified wages which may be taken into account with respect to any individual shall not exceed \$6,000.

**(2) Definitions**

For purposes of this subsection—

**(A) Eligible employer**

The term “eligible employer” means any employer—

(i) which conducted an active trade or business on August 28, 2005, in the GO Zone, and

(ii) with respect to whom the trade or business described in clause (i) is inoperable on any day after August 28, 2005, and before January 1, 2006, as a result of damage sustained by reason of Hurricane Katrina.

**(B) Eligible employee**

The term “eligible employee” means with respect to an eligible employer an employee whose principal place of employment on August 28, 2005, with such eligible employer was in the GO Zone.

**(C) Qualified wages**

The term “qualified wages” means wages (as defined in section 51(c)(1), but without regard to section 3306(b)(2)(B)) paid or incurred by an eligible employer with respect to an eligible employee on any day after August 28, 2005, and before January 1, 2006, which occurs during the period—

(i) beginning on the date on which the trade or business described in subparagraph (A) first became inoperable at the principal place of employment of the employee immediately before Hurricane Katrina, and

(ii) ending on the date on which such trade or business has resumed significant operations at such principal place of employment.

Such term shall include wages paid without regard to whether the employee performs no services, performs services at a different place of employment than such principal place of employment, or performs services at such principal place of employment before significant operations have resumed.

**(3) Certain rules to apply**

For purposes of this subsection, rules similar to the rules of sections 51(i)(1) and 52 shall apply.

**(4) Employee not taken into account more than once**

An employee shall not be treated as an eligible employee for purposes of this subsection for any period with respect to any employer if such employer is allowed a credit under section 51 with respect to such employee for such period.

**(b) Employee retention credit for employers affected by Hurricane Rita**

**(1) In general**

For purposes of section 38, in the case of an eligible employer, the Hurricane Rita em-

ployee retention credit for any taxable year is an amount equal to 40 percent of the qualified wages with respect to each eligible employee of such employer for such taxable year. For purposes of the preceding sentence, the amount of qualified wages which may be taken into account with respect to any individual shall not exceed \$6,000.

**(2) Definitions**

For purposes of this subsection—

**(A) Eligible employer**

The term “eligible employer” means any employer—

(i) which conducted an active trade or business on September 23, 2005, in the Rita GO Zone, and

(ii) with respect to whom the trade or business described in clause (i) is inoperable on any day after September 23, 2005, and before January 1, 2006, as a result of damage sustained by reason of Hurricane Rita.

**(B) Eligible employee**

The term “eligible employee” means with respect to an eligible employer an employee whose principal place of employment on September 23, 2005, with such eligible employer was in the Rita GO Zone.

**(C) Qualified wages**

The term “qualified wages” means wages (as defined in section 51(c)(1), but without regard to section 3306(b)(2)(B)) paid or incurred by an eligible employer with respect to an eligible employee on any day after September 23, 2005, and before January 1, 2006, which occurs during the period—

(i) beginning on the date on which the trade or business described in subparagraph (A) first became inoperable at the principal place of employment of the employee immediately before Hurricane Rita, and

(ii) ending on the date on which such trade or business has resumed significant operations at such principal place of employment.

Such term shall include wages paid without regard to whether the employee performs no services, performs services at a different place of employment than such principal place of employment, or performs services at such principal place of employment before significant operations have resumed.

**(3) Certain rules to apply**

For purposes of this subsection, rules similar to the rules of sections 51(i)(1) and 52 shall apply.

**(4) Employee not taken into account more than once**

An employee shall not be treated as an eligible employee for purposes of this subsection for any period with respect to any employer if such employer is allowed a credit under subsection (a) or section 51 with respect to such employee for such period.

**(c) Employee retention credit for employers affected by Hurricane Wilma****(1) In general**

For purposes of section 38, in the case of an eligible employer, the Hurricane Wilma employee retention credit for any taxable year is an amount equal to 40 percent of the qualified wages with respect to each eligible employee of such employer for such taxable year. For purposes of the preceding sentence, the amount of qualified wages which may be taken into account with respect to any individual shall not exceed \$6,000.

**(2) Definitions**

For purposes of this subsection—

**(A) Eligible employer**

The term “eligible employer” means any employer—

(i) which conducted an active trade or business on October 23, 2005, in the Wilma GO Zone, and

(ii) with respect to whom the trade or business described in clause (i) is inoperable on any day after October 23, 2005, and before January 1, 2006, as a result of damage sustained by reason of Hurricane Wilma.

**(B) Eligible employee**

The term “eligible employee” means with respect to an eligible employer an employee whose principal place of employment on October 23, 2005, with such eligible employer was in the Wilma GO Zone.

**(C) Qualified wages**

The term “qualified wages” means wages (as defined in section 51(c)(1), but without regard to section 3306(b)(2)(B)) paid or incurred by an eligible employer with respect to an eligible employee on any day after October 23, 2005, and before January 1, 2006, which occurs during the period—

(i) beginning on the date on which the trade or business described in subparagraph (A) first became inoperable at the principal place of employment of the employee immediately before Hurricane Wilma, and

(ii) ending on the date on which such trade or business has resumed significant operations at such principal place of employment.

Such term shall include wages paid without regard to whether the employee performs no services, performs services at a different place of employment than such principal place of employment, or performs services at such principal place of employment before significant operations have resumed.

**(3) Certain rules to apply**

For purposes of this subsection, rules similar to the rules of sections 51(i)(1) and 52 shall apply.

**(4) Employee not taken into account more than once**

An employee shall not be treated as an eligible employee for purposes of this subsection

for any period with respect to any employer if such employer is allowed a credit under subsection (a) or (b) or section 51 with respect to such employee for such period.

(Added Pub. L. 109-135, title II, §201(a), Dec. 21, 2005, 119 Stat. 2601.)

**§ 1400S. Additional tax relief provisions****(a) Temporary suspension of limitations on charitable contributions****(1) In general**

Except as otherwise provided in paragraph (2), section 170(b) shall not apply to qualified contributions and such contributions shall not be taken into account for purposes of applying subsections (b) and (d) of section 170 to other contributions.

**(2) Treatment of excess contributions**

For purposes of section 170—

**(A) Individuals**

In the case of an individual—

**(i) Limitation**

Any qualified contribution shall be allowed only to the extent that the aggregate of such contributions does not exceed the excess of the taxpayer's contribution base (as defined in subparagraph (G) of section 170(b)(1)) over the amount of all other charitable contributions allowed under section 170(b)(1).

**(ii) Carryover**

If the aggregate amount of qualified contributions made in the contribution year (within the meaning of section 170(d)(1)) exceeds the limitation of clause (i), such excess shall be added to the excess described in the portion of subparagraph (A) of such section which precedes clause (i) thereof for purposes of applying such section.

**(B) Corporations**

In the case of a corporation—

**(i) Limitation**

Any qualified contribution shall be allowed only to the extent that the aggregate of such contributions does not exceed the excess of the taxpayer's taxable income (as determined under paragraph (2) of section 170(b)) over the amount of all other charitable contributions allowed under such paragraph.

**(ii) Carryover**

Rules similar to the rules of subparagraph (A)(ii) shall apply for purposes of this subparagraph.

**(3) Exception to overall limitation on itemized deductions**

So much of any deduction allowed under section 170 as does not exceed the qualified contributions paid during the taxable year shall not be treated as an itemized deduction for purposes of section 68.

**(4) Qualified contributions****(A) In general**

For purposes of this subsection, the term “qualified contribution” means any chari-

table contribution (as defined in section 170(c)) if—

- (i) such contribution is paid during the period beginning on August 28, 2005, and ending on December 31, 2005, in cash to an organization described in section 170(b)(1)(A) (other than an organization described in section 509(a)(3)),
- (ii) in the case of a contribution paid by a corporation, such contribution is for relief efforts related to Hurricane Katrina, Hurricane Rita, or Hurricane Wilma, and
- (iii) the taxpayer has elected the application of this subsection with respect to such contribution.

**(B) Exception**

Such term shall not include a contribution if the contribution is for establishment of a new, or maintenance in an existing, segregated fund or account with respect to which the donor (or any person appointed or designated by such donor) has, or reasonably expects to have, advisory privileges with respect to distributions or investments by reason of the donor's status as a donor.

**(C) Application of election to partnerships and S corporations**

In the case of a partnership or S corporation, the election under subparagraph (A)(iii) shall be made separately by each partner or shareholder.

**(b) Suspension of certain limitations on personal casualty losses**

Paragraphs (1) and (2)(A) of section 165(h) shall not apply to losses described in section 165(c)(3)—

- (1) which arise in the Hurricane Katrina disaster area on or after August 25, 2005, and which are attributable to Hurricane Katrina,
- (2) which arise in the Hurricane Rita disaster area on or after September 23, 2005, and which are attributable to Hurricane Rita, or
- (3) which arise in the Hurricane Wilma disaster area on or after October 23, 2005, and which are attributable to Hurricane Wilma.

In the case of any other losses, section 165(h)(2)(A) shall be applied without regard to the losses referred to in the preceding sentence.

**(c) Required exercise of authority under section 7508A**

In the case of any taxpayer determined by the Secretary to be affected by the Presidentially declared disaster relating to Hurricane Katrina, Hurricane Rita, or Hurricane Wilma, any relief provided by the Secretary under section 7508A shall be for a period ending not earlier than February 28, 2006.

**(d) Special rule for determining earned income**

**(1) In general**

In the case of a qualified individual, if the earned income of the taxpayer for the taxable year which includes the applicable date is less than the earned income of the taxpayer for the preceding taxable year, the credits allowed under sections 24(d) and 32 may, at the election of the taxpayer, be determined by substituting—

(A) such earned income for the preceding taxable year, for

(B) such earned income for the taxable year which includes the applicable date.

**(2) Qualified individual**

For purposes of this subsection—

**(A) In general**

The term “qualified individual” means any qualified Hurricane Katrina individual, any qualified Hurricane Rita individual, and any qualified Hurricane Wilma individual.

**(B) Qualified Hurricane Katrina individual**

The term “qualified Hurricane Katrina individual” means any individual whose principal place of abode on August 25, 2005, was located—

- (i) in the GO Zone, or
- (ii) in the Hurricane Katrina disaster area (but outside the GO Zone) and such individual was displaced from such principal place of abode by reason of Hurricane Katrina.

**(C) Qualified Hurricane Rita individual**

The term “qualified Hurricane Rita individual” means any individual (other than a qualified Hurricane Katrina individual) whose principal place of abode on September 23, 2005, was located—

- (i) in the Rita GO Zone, or
- (ii) in the Hurricane Rita disaster area (but outside the Rita GO Zone) and such individual was displaced from such principal place of abode by reason of Hurricane Rita.

**(D) Qualified Hurricane Wilma individual**

The term “qualified Hurricane Wilma individual” means any individual whose principal place of abode on October 23, 2005, was located—

- (i) in the Wilma GO Zone, or
- (ii) in the Hurricane Wilma disaster area (but outside the Wilma GO Zone) and such individual was displaced from such principal place of abode by reason of Hurricane Wilma.

**(3) Applicable date**

For purposes of this subsection, the term “applicable date” means—

- (A) in the case of a qualified Hurricane Katrina individual, August 25, 2005,
- (B) in the case of a qualified Hurricane Rita individual, September 23, 2005, and
- (C) in the case of a qualified Hurricane Wilma individual, October 23, 2005.

**(4) Earned income**

For purposes of this subsection, the term “earned income” has the meaning given such term under section 32(c).

**(5) Special rules**

**(A) Application to joint returns**

For purposes of paragraph (1), in the case of a joint return for a taxable year which includes the applicable date—

- (i) such paragraph shall apply if either spouse is a qualified individual, and

(ii) the earned income of the taxpayer for the preceding taxable year shall be the sum of the earned income of each spouse for such preceding taxable year.

**(B) Uniform application of election**

Any election made under paragraph (1) shall apply with respect to both sections 24(d) and section 32.

**(C) Errors treated as mathematical error**

For purposes of section 6213, an incorrect use on a return of earned income pursuant to paragraph (1) shall be treated as a mathematical or clerical error.

**(D) No effect on determination of gross income, etc.**

Except as otherwise provided in this subsection, this title shall be applied without regard to any substitution under paragraph (1).

**(e) Secretarial authority to make adjustments regarding taxpayer and dependency status**

With respect to taxable years beginning in 2005 or 2006, the Secretary may make such adjustments in the application of the internal revenue laws as may be necessary to ensure that taxpayers do not lose any deduction or credit or experience a change of filing status by reason of temporary relocations by reason of Hurricane Katrina, Hurricane Rita, or Hurricane Wilma. Any adjustments made under the preceding sentence shall ensure that an individual is not taken into account by more than one taxpayer with respect to the same tax benefit.

(Added Pub. L. 109-135, title II, §201(a), Dec. 21, 2005, 119 Stat. 2604; amended Pub. L. 110-172, §11(a)(14)(C), Dec. 29, 2007, 121 Stat. 2485.)

AMENDMENTS

2007—Subsec. (a)(2)(A)(i). Pub. L. 110-172 substituted “subparagraph (G)” for “subparagraph (F)”.

**§ 1400T. Special rules for mortgage revenue bonds**

**(a) In general**

In the case of financing provided with respect to owner-occupied residences in the GO Zone, the Rita GO Zone, or the Wilma GO Zone, section 143 shall be applied—

- (1) by treating any such residence in the Rita GO Zone or the Wilma GO Zone as a targeted area residence,
- (2) by applying subsection (f)(3) thereof without regard to subparagraph (A) thereof, and
- (3) by substituting “\$150,000” for “\$15,000” in subsection (k)(4) thereof.

**(b) Application**

Subsection (a) shall not apply to financing provided after December 31, 2010.

(Added Pub. L. 109-135, title II, §201(a), Dec. 21, 2005, 119 Stat. 2607.)

PART III—RECOVERY ZONE BONDS

Sec.

1400U-1. Allocation of recovery zone bonds.

1400U-2. Recovery zone economic development bonds.

1400U-3. Recovery zone facility bonds.

**§ 1400U-1. Allocation of recovery zone bonds**

**(a) Allocations**

**(1) In general**

**(A) General allocation**

The Secretary shall allocate the national recovery zone economic development bond limitation and the national recovery zone facility bond limitation among the States in the proportion that each such State's 2008 State employment decline bears to the aggregate of the 2008 State employment declines for all of the States.

**(B) Minimum allocation**

The Secretary shall adjust the allocations under subparagraph (A) for any calendar year for each State to the extent necessary to ensure that no State receives less than 0.9 percent of the national recovery zone economic development bond limitation and 0.9 percent of the national recovery zone facility bond limitation.

**(2) 2008 State employment decline**

For purposes of this subsection, the term “2008 State employment decline” means, with respect to any State, the excess (if any) of—

(A) the number of individuals employed in such State determined for December 2007, over

(B) the number of individuals employed in such State determined for December 2008.

**(3) Allocations by States**

**(A) In general**

Each State with respect to which an allocation is made under paragraph (1) shall reallocate such allocation among the counties and large municipalities in such State in the proportion to<sup>1</sup> each such county's or municipality's 2008 employment decline bears to the aggregate of the 2008 employment declines for all the counties and municipalities in such State. A county or municipality may waive any portion of an allocation made under this subparagraph.

**(B) Large municipalities**

For purposes of subparagraph (A), the term “large municipality” means a municipality with a population of more than 100,000.

**(C) Determination of local employment declines**

For purposes of this paragraph, the employment decline of any municipality or county shall be determined in the same manner as determining the State employment decline under paragraph (2), except that in the case of a municipality any portion of which is in a county, such portion shall be treated as part of such municipality and not part of such county.

**(4) National limitations**

**(A) Recovery zone economic development bonds**

There is a national recovery zone economic development bond limitation of \$10,000,000,000.

<sup>1</sup> So in original.

**(B) Recovery zone facility bonds**

There is a national recovery zone facility bond limitation of \$15,000,000,000.

**(b) Recovery zone**

For purposes of this part, the term “recovery zone” means—

(1) any area designated by the issuer as having significant poverty, unemployment, rate of home foreclosures, or general distress,

(2) any area designated by the issuer as economically distressed by reason of the closure or realignment of a military installation pursuant to the Defense Base Closure and Realignment Act of 1990, and

(3) any area for which a designation as an empowerment zone or renewal community is in effect.

(Added Pub. L. 111-5, div. B, title I, § 1401(a), Feb. 17, 2009, 123 Stat. 348.)

## REFERENCES IN TEXT

The Defense Base Closure and Realignment Act of 1990, referred to in subsec. (b)(2), is part A of title XXIX of div. B of Pub. L. 101-510, Nov. 5, 1990, 104 Stat. 1808, which is set out as a note under section 2687 of Title 10, Armed Forces. For complete classification of this Act to the Code, see Tables.

## EFFECTIVE DATE

Pub. L. 111-5, div. B, title I, § 1401(c), Feb. 17, 2009, 123 Stat. 351, provided that: “The amendments made by this section [enacting this part] shall apply to obligations issued after the date of the enactment of this Act [Feb. 17, 2009].”

**§ 1400U-2. Recovery zone economic development bonds****(a) In general**

In the case of a recovery zone economic development bond—

(1) such bond shall be treated as a qualified bond for purposes of section 6431, and

(2) subsection (b) of such section shall be applied by substituting “45 percent” for “35 percent”.

**(b) Recovery zone economic development bond****(1) In general**

For purposes of this section, the term “recovery zone economic development bond” means any build America bond (as defined in section 54AA(d)) issued before January 1, 2011, as part of issue if—

(A) 100 percent of the excess of—

(i) the available project proceeds (as defined in section 54A) of such issue, over

(ii) the amounts in a reasonably required reserve (within the meaning of section 150(a)(3)) with respect to such issue,

are to be used for one or more qualified economic development purposes, and

(B) the issuer designates such bond for purposes of this section.

**(2) Limitation on amount of bonds designated**

The maximum aggregate face amount of bonds which may be designated by any issuer under paragraph (1) shall not exceed the amount of the recovery zone economic development bond limitation allocated to such issuer under section 1400U-1.

**(c) Qualified economic development purpose**

For purposes of this section, the term “qualified economic development purpose” means expenditures for purposes of promoting development or other economic activity in a recovery zone, including—

(1) capital expenditures paid or incurred with respect to property located in such zone,

(2) expenditures for public infrastructure and construction of public facilities, and

(3) expenditures for job training and educational programs.

(Added Pub. L. 111-5, div. B, title I, § 1401(a), Feb. 17, 2009, 123 Stat. 349.)

**§ 1400U-3. Recovery zone facility bonds****(a) In general**

For purposes of part IV of subchapter B (relating to tax exemption requirements for State and local bonds), the term “exempt facility bond” includes any recovery zone facility bond.

**(b) Recovery zone facility bond****(1) In general**

For purposes of this section, the term “recovery zone facility bond” means any bond issued as part of an issue if—

(A) 95 percent or more of the net proceeds (as defined in section 150(a)(3)) of such issue are to be used for recovery zone property,

(B) such bond is issued before January 1, 2011, and

(C) the issuer designates such bond for purposes of this section.

**(2) Limitation on amount of bonds designated**

The maximum aggregate face amount of bonds which may be designated by any issuer under paragraph (1) shall not exceed the amount of recovery zone facility bond limitation allocated to such issuer under section 1400U-1.

**(c) Recovery zone property**

For purposes of this section—

**(1) In general**

The term “recovery zone property” means any property to which section 168 applies (or would apply but for section 179) if—

(A) such property was constructed, reconstructed, renovated, or acquired by purchase (as defined in section 179(d)(2)) by the taxpayer after the date on which the designation of the recovery zone took effect,

(B) the original use of which in the recovery zone commences with the taxpayer, and

(C) substantially all of the use of which is in the recovery zone and is in the active conduct of a qualified business by the taxpayer in such zone.

**(2) Qualified business**

The term “qualified business” means any trade or business except that—

(A) the rental to others of real property located in a recovery zone shall be treated as a qualified business only if the property is not residential rental property (as defined in section 168(e)(2)), and

(B) such term shall not include any trade or business consisting of the operation of any facility described in section 144(c)(6)(B).



**(3) Special rules for substantial renovations and sale-leaseback**

Rules similar to the rules of subsections (a)(2) and (b) of section 1397D shall apply for purposes of this subsection.

**(d) Nonapplication of certain rules**

Sections 146 (relating to volume cap) and 147(d) (relating to acquisition of existing property not permitted) shall not apply to any recovery zone facility bond.

(Added Pub. L. 111–5, div. B, title I, § 1401(a), Feb. 17, 2009, 123 Stat. 350.)

**CHAPTER 2—TAX ON SELF-EMPLOYMENT INCOME**

Sec.	
1401.	Rate of tax.
1402.	Definitions.
1403.	Miscellaneous provisions.

**§ 1401. Rate of tax**

**(a) Old-age, survivors, and disability insurance**

In addition to other taxes, there shall be imposed for each taxable year, on the self-employment income of every individual, a tax equal to the following percent of the amount of the self-employment income for such taxable year:

In the case of a taxable year		
Beginning after:	And before:	Percent:
December 31, 1983 .....	January 1, 1988 .....	11.40
December 31, 1987 .....	January 1, 1990 .....	12.12
December 31, 1989 .....		12.40

**(b) Hospital insurance**

In addition to the tax imposed by the preceding subsection, there shall be imposed for each taxable year, on the self-employment income of every individual, a tax equal to the following percent of the amount of the self-employment income for such taxable year:

In the case of a taxable year		
Beginning after:	And before:	Percent:
December 31, 1983 .....	January 1, 1985 .....	2.60
December 31, 1984 .....	January 1, 1986 .....	2.70
December 31, 1985 .....		2.90

**(c) Relief from taxes in cases covered by certain international agreements**

During any period in which there is in effect an agreement entered into pursuant to section 233 of the Social Security Act with any foreign country, the self-employment income of an individual shall be exempt from the taxes imposed by this section to the extent that such self-employment income is subject under such agreement exclusively to the laws applicable to the social security system of such foreign country.

(Aug. 16, 1954, ch. 736, 68A Stat. 353; Sept. 1, 1954, ch. 1206, title II, § 208(a), 68 Stat. 1093; Aug. 1, 1956, ch. 836, title II, § 202(a), 70 Stat. 845; Pub. L. 85–840, title IV, § 401(a), Aug. 28, 1958, 72 Stat. 1041; Pub. L. 87–64, title II, § 201(a), June 30, 1961, 75 Stat. 140; Pub. L. 89–97, title I, § 111(c)(4), title III, § 321(a), July 30, 1965, 79 Stat. 342, 394; Pub. L. 90–248, title I, § 109(a)(1), (b)(1), Jan. 2, 1968, 81 Stat. 835, 836; Pub. L. 92–336, title II, § 204 (a)(1), (b)(1), July 1, 1972, 86 Stat. 420, 421; Pub. L. 92–603, title I, § 135(a)(1), (b)(1), Oct. 30, 1972, 86

Stat. 1362, 1363; Pub. L. 93–233, § 6(b)(1), Dec. 31, 1973, 87 Stat. 955; Pub. L. 94–455, title XIX, § 1901(a)(154), Oct. 4, 1976, 90 Stat. 1789; Pub. L. 95–216, title I, § 101(a)(3), (b)(3), title III, § 317(b)(1), Dec. 20, 1977, 91 Stat. 1511, 1512, 1539; Pub. L. 98–21, title I, § 124(a), (b), Apr. 20, 1983, 97 Stat. 89; Pub. L. 101–508, title XI, § 11801(a)(36), (c)(16), Nov. 5, 1990, 104 Stat. 1388–521, 1388–527; Pub. L. 108–203, title IV, § 415, Mar. 2, 2004, 118 Stat. 530; Pub. L. 111–148, title IX, § 9015(b)(1), title X, § 10906(b), Mar. 23, 2010, 124 Stat. 871, 1020; Pub. L. 111–152, title I, § 1402(b)(1)(B), Mar. 30, 2010, 124 Stat. 1063.)

**AMENDMENT OF SUBSECTION (b)**

*Pub. L. 111–152, title I, § 1402(b)(1)(B), (3), Mar. 30, 2010, 124 Stat. 1063, provided that, applicable with respect to remuneration received, and taxable years beginning after, Dec. 31, 2012, subsection (b)(2) of this section, as added and amended by sections 9015 and 10906 of Pub. L. 111–148, is amended:*

*(1) in subparagraph (A), by striking “and” at the end of clause (i), redesignating clause (ii) as (iii), and adding after clause (i) the following new clause:*

*“(ii) in the case of a married taxpayer (as defined in section 7703) filing a separate return, ½ of the dollar amount determined under clause (i), and”; and*

*(2) in subparagraph (B), by striking “under clauses (i) and (ii)” and inserting “under clause (i), (ii), or (iii) (whichever is applicable)”.*

*Pub. L. 111–148, title X, § 10906(b), (c), Mar. 23, 2010, 124 Stat. 1020, provided that, applicable with respect to remuneration received, and taxable years beginning, after Dec. 31, 2012, subsection (b)(2)(A) of this section, as added by section 9015(b)(1) of Pub. L. 111–148, is amended by striking “0.5 percent” and inserting “0.9 percent”.*

*Pub. L. 111–148, title IX, § 9015(b)(1), (c), Mar. 23, 2010, 124 Stat. 871, 872, provided that, applicable with respect to remuneration received, and taxable years beginning, after Dec. 31, 2012, subsection (b) of this section is amended by inserting “(1) In general” before “In addition” and adding at the end a paragraph (2), to read as follows:*

**(2) Additional tax**

**(A) In general**

*In addition to the tax imposed by paragraph (1) and the preceding subsection, there is hereby imposed on every taxpayer (other than a corporation, estate, or trust) for each taxable year beginning after December 31, 2012, a tax equal to 0.5 percent of the self-employment income for such taxable year which is in excess of—*

- (i) in the case of a joint return, \$250,000, and*
- (ii) in any other case, \$200,000.*

**(B) Coordination with FICA**

*The amounts under clauses (i) and (ii) of subparagraph (A) shall be reduced (but not below zero) by the amount of wages taken into account in determining the tax imposed under section 3121(b)(2) with respect to the taxpayer.*